

THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946

Bombay Act No. XI of 1947

(15th April 1947)

An Act to regulate the relations of employers and employees, to make provision for settlement of industrial disputes and to provide for certain other purposes.

WHEREAS it is expedient to provide for the regulation of the relations of employers and employees in certain matters, to consolidate and amend the law relating to the settlement of industrial disputes and to provide for certain other purposes. It is hereby enacted as follows:

CHAPTER I-PRELIMINARY

SECTION 01: SHORT TITLE

This Act may be called the Bombay Industrial Relations Act, 1946.

SECTION 02: EXTENT, COMMENCEMENT AND APPLICATION

(1) This Act extends to the 3[whole of the state of Maharashtra.

(2) It shall come into force on such date as the 4[state] Government may by notification in the Official Gazette specify:

5[Provided that, on the commencement of the Bombay Industrial Relations (Extension and Amendment) Act, 1964 this Act shall come into force in those areas of the Vidarbha area of the State in which immediately before such commencement the Central Provinces and Berar Industrial Disputes Settlement Act, 1947, was in force)

(3) In the areas in which the Bombay Industrial Disputes Act, 1938, was in force immediately before the commencement of this Act, this Act shall apply to the industries to which the said Act applied

6[Provided that this Act shall cease to apply with effect from the date on which the Bombay Industrial Relations (Amendment) Act, 1949, comes into force, to the Imperial Bank of India and any banking company as defined in section 5 of the Banking Companies Act, 1949, having branches or other establishments in more than one 4[State]

(4) The 4[State Government may by notification in the Official Gazette apply all or any of the provisions of this Act to all or any other industries, whether generally or any local area as may be specified in such notification.

Footnotes:

1. For Statement of Objects and Reasons, see Bombay Government Gazette, 1946, Pt. V, p.2 and for Proceedings in Assembly, see Bombay Legislative Assembly Debates, 1946, and for Proceedings its Council, see Bombay Legislative Council, Debates, 1946, Vol XI.
2. This Act is extended to the rest of the State of Maharashtra (vide Mah. 22 of 1965, S.2)
3. Subs, by Mah. 22 of 1965.
4. Subs, by the Adaptation of Laws Order, 1950.
5. Added by Mah. 22 of 1965.
6. Added by Born. 55 of 1949, Addition of the said proviso shall not affect any proceedings, other than a proceeding in respect of a reference made by the State Government or any officer or authority subordinate to it, pending before the Industrial Court or a Labour Court or the Registrar on the date on which Bom.55 of 1949 comes into force and to which the Imperial Bank of India or a banking company referred to in the said proviso is a party, and such proceeding shall be continued and disposed of as if Born. 55 of 1949 had not been , (S.20 of Boin.55 of 1949).

7[Provided that on the commencement of the Bombay Industrial Relations (Extension and Amendment) Act, 1964, all the provisions of this Act shall apply to those industries in the Vidarbha area of the State to which the Central Provinces and Berar Industrial Disputes Settlement Act, 1947, applied.]

8[(5) The State Government may, by notification in the Official Gazette, direct that the provisions of this Act shall cease to apply to such industry in such area and from such date as may be specified in the notification; and thereupon on that date, the provisions of this Act shall cease to apply to that industry in such area, and thereupon, the provisions of section 7 of the Bombay General Clauses Act, 1904, shall apply to such cessor as if this Act had then been repealed in relation to the said industry in such area by a Maharashtra Act.

(6) On the application of this Act to any industry generally or in any area, in the manner provided in the foregoing provisions of this section, all rules, regulations, orders and notifications made or issued or deemed to be made or issued under this Act, and in force in the Bombay area of the State immediately before such application to any industry shall in so far as they are not inconsistent with the provisions of the principal Act, as amended by the Bombay Industrial Relations (Extension and Amendment) Act, 1964, also apply to such industry generally, or as the case may be, in that area until duly rescinded or amended.]

SECTION 03: DEFINITIONS

In this Act unless there is anything repugnant in the subject or context -

- (1) "approved list" means the list of approved unions maintained by the Registrar under section 12;
- (2) "approved union" means a union on the approved list;
- (3) "arbitration proceeding" means
 - (i) any proceeding under this Act before an arbitrator,
 - (ii) any proceeding before a Labour Court, 9[a Wage Board] or the Industrial Court in arbitration;
- (4) "arbitrator" means an arbitration to whom a dispute is referred for arbitration under the provisions of this Act and includes an umpire;
- (5) "association of employers" means any combination of employers recognised by the 10[State] Government under section 27;
- (6) "award" means any 11[final or supplementary] determination in an arbitration proceeding of any industrial dispute or of any question relating thereto;
- (7) "board" means a Board of Conciliation appointed under section 7; (8) "change" means an alteration in an industrial matter;
- 12(8A) "closure" means the closing of any place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal is or is not in consequence of a industrial dispute;]

Footnotes:

7 Added by Mah. 22 of 1965.

S Added h Ibid.

9 Ins, by Born. 74 of 1948.

10 Subs, by the Adaptation of Laws Order, 1950.

11 Subs. by Ib 55 of I 949.

12 Ins, by Born. 74 of 1948.

(9) "Commissioner of Labour" means an officer appointed by the 13[State Government for the time being to be the Commissioner of the Labour; and in respect of any of the powers and duties of the Commissioner of Labour that may be conferred and imposed on any person, includes such person;

(10) "Conciliation proceeding" means any proceeding held by a Conciliator or a Board under this Act;

(11) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator 14[Additional Chief Conciliator] or a Special Conciliator;

(12) "Court of Enquiry" means a Court constituted under section 100;

(13) "employee" means any person employed to do any skilled or unskilled work for hire or reward in any industry, and includes -

(a) a person employed by a contractor to do any work for him in the execution of a contract with an employer within the meaning of sub-clause (e) of clause (14);

(b) a person who has been, 16[dismissed, discharged or retrenched or whose services have been terminated, from employment on account of any dispute relating to change in respect of which a notice is given or an application made under section 42 whether before or after his 17[dismissal, discharge, retrenchment or, as the case may be, termination from employment];

18[but does not include

(i) a person employed primarily in a managerial, administrative, supervisory or technical capacity 19[drawing basic pay (excluding allowances) exceeding 20[one thousand rupees per month; I

(ii) any other person or class of persons employed in the same capacity as those specified in clause (i) above irrespective of the amount of the pay drawn by such persons which the State Government may, by notification in the Official Gazette, specify in this behalf;

13. Subs, by the Adaptation of Laws Order, 1950.

14. Ins, by Mali. 22 of 1965.

IS. Deleted by horn. 63 of 1953.

16. Subs, by Mali. 22 of 1965.

17. Subs, by Ibid.

18. Added by Born, 63 of' 1953.

19. Subs, by Mali. 22 of 1965.

20. Subs', by Mali. 47 01' 1977.

(14) "employer" includes -

(a) an association or a group of employers;

(h) any agent of an employers;

(c) where an industry is conducted or carried on by a department of the 21[State Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of the

department;

(d) where an industry is conducted or carried on by or on behalf of a local authority, the chief executive officer of the authority;

(e) where the owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the undertaking, the owner of the undertaking;

(15) "illegal change" means an illegal change within the meaning of sub-section (4) or (5) of section 46;

(16) "industrial Court" means the Court of Industrial Arbitration constituted under section 10;

(17) "industrial dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter;

(18) "Industrial matter" means any matter relating to employment, work, wages, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment, and includes-

(a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(b) all matters pertaining to the demarcation of functions of any employee or classes of employees;

(c) all matters pertaining to any right or claim under or in respect of or concerning a registered agreement or a submission, settlement or award made under this Act;

(d) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

Footnotes:

21. Subs, by the Adaptation of Laws Order, 1950.

(19) "industry" means

(a) any business, trade, manufacture or undertaking or calling of employers;

(b) any calling, service, employment, handicraft, or industrial occupation or a vocation of employees; and includes -

(i) agriculture and agricultural operations;

(ii) any branch of an industry or group of industries which the State Government may by notification in the Official Gazette declare to be an industry for the purposes of this Act;

(20) "Joint Committee" means a Joint Committee constituted under section 48; (21) "Labour Court" means a Labour Court constituted under section 9;

(22) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act; and includes in respect of such powers and duties of the Labour Officer as may be conferred and imposed on him, as Assistant Labour Officer;

(23) "local area" means any area 23[including the entire State]] notified as a local area for the purpose of this Act 24[or for different industries;]

(24) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of -

(a) compelling any of the employees directly affected by such closing, suspension or refusal or any other employees of his, or

(b) aiding any other employer in compelling persons employed by him, to accept any term or condition of or affecting employment;

(25) "member" means a person who is an ordinary member of a union and who has paid a subscription of not less than 25[twenty-five paise] 26[per calendar month]:

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears 25[for a period of more than three calendar months during the period of six months immediately preceding such time].

Footnotes

22. Subs. by the Adaptation of Laws Order, 1950.

23. Ins, by Mah. 22 of 1965.

24. Added by *ibid*.

25. Subs. by Mah. 22 of 1965.

26. Subs, by Born. 63 of 1953.

27[**Explanation:** A subscription for a particular calendar month shall, for the purposes of this clause, be deemed to be in arrears if such subscription is not paid by the end of the calendar month in respect of which it is due];

(26) "occupation" means such section of an undertaking as it is recognised under section 11 to be an occupation;

- (27) "Prescribed" means prescribed by rules made under this Act;
- (28) "Primary Union" means a union for the time being registered as a Primary Union under this Act;
- (29) "Qualified Union" means a union for the time being registered as a Qualified Union under this Act;
- (30) "registered union" means a union registered under this Act;
- (31) "Registrar" means a person for the time being appointed to be the Registrar of Unions under this Act; and includes 28[an Additional Registrar and] in respect of such powers and duties of the Registrar as may be conferred and imposed on him, an Assistant Registrar of Unions;
- (32) "representative of employees" means a representative of employees entitled 29[to appear or act as such under section 30];
- (33) "Representative Union" means a union for the time being registered as a Representative Union under this Act;
- (34) "schedule" means a schedule appended to this Act;
- (35) "settlement" means a settlement arrived at during the course of a conciliation proceeding; 30[and for the purposes of section 44B includes a settlement arrived at within two months from the date of the completion of any conciliation proceeding which has failed];
- 31[(35A) "stoppage" means a total or partial cessation of work by the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, whether such cessation or refusal is or is not in consequence of an industrial dispute;]
- (36) "strike" means a total or partial cessation of work by the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, where such cessation or refusal is in consequence of an industrial dispute;
- (37) "undertaking" means such concern in any industry as is recognised by the Registrar under section 11;
- (38) "union" means a Trade Union of employees which is registered under the Indian Trade Unions Act, 1926.
- 32(38A) "Wage Board" means a Wage Board constituted under section 86A):
- (39) "wages" means remuneration of all kinds capable of being expressed in terms of money and payable to an employee in respect of his employment or work done in such employment and includes -

Footnotes:

- 27. Ins, by Born. 63 of 1953.
- 28. Ins, by Mah. 22 of 1965.
- 29. Subs, by Born. 55 of 1949.
- 30. Added by Born. 63 of 1953.
- 31. Ins, by Born. 74 of 1948.
- 32. Ins, by Boin. 43 of 1948.

- (i) any bonus, allowances (including dearness allowances), reward or additional remuneration;
- (ii) the value of any house accommodation, light, water, medical attendance or other amenity or service;
- (iii) any contribution by the employer to any person or provident fund;
- (iv) any travelling allowance or the value of any travelling concession;
- (v) any sum paid or payable to or on behalf of an employee to defray special expenses entailed on him by the nature of his employment;
- 33[(vi) gratuity payable, if any].

CHAPTER II-AUTHORITIES TO BE CONSTITUTED OR APPOINTED UNDER THIS ACT

SECTION 04: COMMISSIONER OF LABOUR

The 34[State Government shall, by notification in the Official Gazette, appoint a person to be Commissioner of Labour.

(2) The 34[State Government may, by general or special order, notified in the Official Gazette confer and impose all or any of the powers and duties of the Commissioner of Labour on any person whether generally or for any local area.

SECTION 05: REGISTRAR 35[ADDITIONAL REGISTRARS] AND ASSISTANT REGISTRARS

The 34[State Government shall, by notification in the Official Gazette, appoint a person to be the Registrar of Unions for 36[the whole of the State of Maharashtra].

37[(1A) The State Government may, by similar notification, appoint one or more Additional Registrars of Unions for the whole State or for any local area thereof. An Additional Registrar of

Unions shall exercise such powers and perform such duties of the Registrar under the provisions of this Act, as the State Government may, by notification in the Official Gazette, specify in this behalf.

(1 B) An Additional Registrar shall not be subordinate to the Registrar except as respect such matters as the State Government may, by general or special order, specify in this behalf. I

(2) The 34[State Government may, by similar notification, appoint a person to be the Assistant Registrar of Unions for any local area and may, by general or special order, confer on such person all or any of the powers of the Registrar of Unions under this Act.

SECTION 06: CONCILIATORS

(1) The 34[State Government shall appoint a person to be the Chief Conciliator. His jurisdiction shall extend 38[throughout the 36[State of Maharashtra].

37[(1A) The State Government may appoint one or more Additional Chief Conciliators for the whole State or for any local area thereof. An Additional Chief Conciliator shall exercise such powers and perform such duties of the Chief Conciliators under the provisions of this Act as the State Government may, by notification in the Official Gazette, specify in this behalf.

Footnotes:

33. Subs, by Malt 22 of 1965.

34. Subs, by the Adaptation of Laws Order, 1950.

35. Added by Mab. 22 of 1965.

36. Subs, by Mah. 22 of 1965.

37. Ins, by ibid.

38. Subs, by the Boin. Adaptation of Laws Order, 1956.

(1 B) An Additional Chief Conciliator" shall not he subordinate to the Chief

Conciliator, except as respects, such matters as the State Government may, by general or special order, specify in this behalf.]

(2) The 39[State Government may, by notification in the Official Gazette, appoint any person to he a Conciliator for any industry in a local area specified in the notification.

(3) The39[State Government may, by notification in the Official Gazette, appoint any person to be a Special Conciliator for such local area or for such industry for such local area or for such industrial dispute or class of disputes as may be specified in the notification.

SECTION 07: BOARD OF CONCILIATION

(1) When an industrial dispute arises the 39[State Government may, by notification in the Official Gazette, constitute a Board of Conciliation for promoting the settlement of such dispute.

(2) The Board shall consist of a Chairman who shall be an independent person and an even number of members. Every member shall be either an independent person or a person chosen by the 39[State Government from a panel representing the interests of the employers or employees, provided that the number of persons chosen from panels representing employers and the number chosen from panels representing employees shall be equal. Such panels shall be constituted in the manner prescribed.

(3) If any vacancy Occurs in the office of the Chairman or a member of the Board before the Board has completed its work, such vacancy shall be filled in the manner prescribed and the proceedings shall be continued before the Board as so reconstituted from the stage at which they were when the vacancy occurred.

Explanation.-For the purposes of this section a person shall he deemed to be an independent person if he is unconnected with the dispute for the settlement of which the Board is constituted and the industry directly affected by the dispute.

SECTION 08: LABOUR OFFICERS AND ASSISTANT LABOUR OFFICERS

(1) The 39[state Government may, by notification in the Official Gazette, appoint Labour Officers for any local area or areas.

(2) The 39[State Government may, by similar notification appoint Assistant Labour Officer for any local area or areas, and may by general or special order confer on them all or any of the powers of the Labour Officer under this Act.

SECTION 09: LABOUR COURTS

The 39[State Government shall, by notification in the Official Gazette, constitute one or more Labour Courts having jurisdiction in such local areas as may be specified in such notification and shall appoint persons having 40[the following qualifications] to preside over such Courts:

41[A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless-

(a) be has held any judicial office in India for not less than five years; or

(b) he has practiced as an Advocate or Attorney for not less than seven years in the High Court or any Court subordinate thereto, or in any Industrial Court, Tribunal or Labour Court constituted Under

any law for the time being in force; or

(c) he holds a degree in law of a University established by law in any part of

India and is holding or has held an office not lower in rank than that of Deputy Registrar of any such Industrial Court or Tribunal, or of Assistant Commissioner of Labour under the State Government, in both cases for not less than five years.

39. Subs, by the Adaptation of Laws Order, 1950. 41. Subs, by *ibid*.

40. Subs.. by Mah. 47 of 1977.

SECTION 10: INDUSTRIAL COURT

(1) The 42[State Government shall constitute a Court of industrial Arbitration.

(2) The Industrial Court shall consist of three or more members, one of whom shall be its President.

(3) Every member of the industrial Court shall be a person 43[who is not connected with the industrial dispute referred to such court or with any industry directly affected by such dispute:

Provided that no person shall be deemed to be connected with the industrial dispute or with the industry by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by such industrial dispute; but in such a case, he shall disclose to the State Government the nature and extent of the shares held by him in such company.

(4) Every member of the Industrial Court shall be a person who is or has been a judge of High Court or is eligible for being appointed a judge of such Court:

44[**Provided that**,-

(a) a person who has been a Judge not lower in rank than that of Assistant Judge, for not less than three years; or

(b) a person who has been the presiding officer of a Labour Court constituted under any law for the time being in force, for not less than five years; or

(c) a person who holds a degree u law of a University established by law in any Part of India and is holding or has held an office not lower in rank than that of Assistant Commissioner of Labour under the State Government, for not less than ten years, shall also be eligible for appointment as a member of the Industrial Court:

Provided further that, one member of the Industrial Court may be a person not so eligible, if in the opinion of the State Government he possesses expert knowledge of Industrial matters.

CHAPTER III-REGISTRATION OF UNIONS

SECTION 11: RECOGNITION OF UNDERTAKINGS AND OCCUPATIONS

The Registrar may after making such inquiry as he deems fit, recognise for the purposes of this Act-

- (1) any concern in an industry to be an undertaking;
- (2) any section of an undertaking to be an occupation.

SECTION 12: MAINTENANCE OF REGISTERS AND APPROVED LIST

It shall be the duty of the Registrar to maintain in such forms as may be prescribed

- (a) registers of unions registered by him under the provisions of this Act, and
- (b) a list of approved unions.

Footnotes:

42. Subs, by the Adaptation of Laws Order, 1950.

43. Subs. by I3om. 35 of 1956.

44. Subs, by Mah. 47 of 1977.

SECTION 13: APPLICATION FOR REGISTRATION

(1) Any union which has for the whole of the period of 45[three calendar months immediately preceding the calendar month in which it so applies] under this section a membership of 46[not less than twenty-five per cent] of the total number of employees employed in any industry in any local area may apply in the prescribed form to the Registrar for registration as a Representative Union for such industry in such local area.

(2) If in any local area no Representative Union has been registered in respect of an industry a union which has for the whole of the period of 45[three calendar months immediately preceding the calendar month in which it so applies] under this section a membership of not less than five per cent of the total number of employees employed in such industry in the said area may apply in the prescribed form to the Registrar for registration as a Qualified Union for such industry in such local area.

(3) If in any local area, neither a Representative Union nor a Qualified Union has been registered in respect of an industry, a union having a membership of not less than fifteen per cent of the total number of employees employed in any undertaking in such industry in the said area and complying

with the conditions specified in section 23 as necessary for its being Placed on the approved list may apply in the prescribed form to the Registrar for registration as a Primary Union for such industry in such local area.

47[(4) Notwithstanding anything contained in this section, if a union makes a fresh application for registration as a Representative Union, Qualified Union, or as the case may be, Primary Union, before a previous application for such registration has been finally disposed of by the Registrar, the Registrar shall not entertain such application.]

SECTION 14: REGISTRATION OF UNION

On receipt of an application from a union for registration under section 13 and on payment of the fee prescribed, the Registrar shall, if after holding such inquiry as he deems fit he comes to the conclusion that the conditions requisite for registration specified in the said section. are satisfied and that the union is not otherwise disqualified for registration, enter the name of the union in the appropriate register maintained under section 12 and issue a certificate of registration in such form as may be prescribed:

Provided-

Firstly, that in any local area there shall not at any time be more than one registered union in respect of the same industry; Secondly, that in any local area the Registrar shall in respect of an industry register a union fulfilling the conditions necessary for registration as a Representative Union in preference to one not fulfilling the said conditions, and failing such a union fulfilling the conditions necessary for registration as a Qualified Union in preference to one not fulfilling such conditions: Thirdly, that where two or more unions fulfilling the conditions necessary for registration apply for registration in respect of the same industry in any local area

45. Subs, by Born. 63 of 1953.

46. Sub, by Mah. 22 of 1965.

47. Added by *ibid*.

48[in the same calendar month] subject to the provisions of the second proviso, the union [upon having the largest membership of employees employed in the industry 49[for a period of three months immediately preceding the calendar month in which they apply] shall be registered 49[and no applications for registration received in any subsequent calendar month shall be considered, until the applications received first in the same calendar month are disposed of by the Registrar]:

Fourthly, that the Registrar shall not register any union if he is satisfied that the application for its registration is not made bona fide in the interest of the employees but is made in the interest of the employers to the prejudice of the interest of the employees:

50[Fifthly that the Registrar shall not register any union if at any time, within six months immediately preceding the date of the application for registration or thereafter the union has instigated, aided or assisted the commencement or continuation of a strike or stoppage which has been held or declared to be illegal:

Sixthly, that the Registrar shall not register any union, if the rules of the union relating to its members contain any provision debarring any employee in the industry concerned from being a member of such union on the ground that he is or he is not an employee in any particular undertaking in the said industry.]

SECTION 15: CANCELLATION OF REGISTRATION

The Registrar shall cancel the registration of a union

- (a) if the Industrial Court directs that the registration of such union shall be cancelled;
- (h) if 51[after giving notice to such union to show cause why its registration should not be cancelled and] after holding such inquiry, if any, as he deems fit, he is satisfied
- (i) that it was registered under mistake, misrepresentation or fraud; or
- (ii) that the membership of the union has for a continuous period of three 52[calendar months fallen below the minimum required under section 13 for its registration:

Provided that where a strike or a closure not being an illegal strike or closure under this Act in an industry involving more than a third of the employees in the industry in the area has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of three months

Provided further that the registration of a union shall not be cancelled under the provisions of this sub-clause unless its membership 52[for the calendar month in which show cause notice under this section was issued was less than such minimum; or

- (iii) that the registered union being a Primary Union has after registration failed to observe any of the conditions specified in section 23; or
- (iv) that the registered union is not being conducted bona fide in the interests of employees but in the interests of employers to the prejudice of the interest of employees; or
- (v) that it has instigated, aided or assisted the commencement or continuation of 53 strike or a stoppage which has been held or declared to be illegal];
- (C) if its registration under the Indian Trade Unions Act, 1926, is cancelled.

Footnotes:

48. Added by Mah. 22 of 1965.

49. Ins, by ibid.

50. Added by Born. 74 of 1948.

51. Ins, by Born. 62 of 1963.

52. Subs. by Born. 63 of 1953.

SECTION 16: REGISTRATION OF ANOTHER UNION IN PLACE OF EXISTING REGISTERED UNION

(1) If at any time any union (hereinafter in this section referred to as "applicant Union") makes an application to the Registrar for being registered in place of the union already registered (hereinafter in this section referred to as "registered union") for an industry, in a local area, on the ground that it has a larger membership of employees employed in such industry the Registrar shall 54[if a period of two years has elapsed since the (date of registration of the registered union,) call upon the registered union by a notice in writing to show cause within 55[thirty days] of the receipt of such notice why the applicant union should not be registered in its place. An application made under this sub-section shall be accompanied by such form as may be prescribed:

56["Provided that, the Registrar shall not entertain any application for registration of a union, unless a period of one year has elapsed since the date of disposal of the previous application of the union.

(2) The Registrar shall forward to the Labour Officer a copy of the said application and notice.

(3) If, on the expiry of the period of notice under sub-section (1), after holding such inquiry as he deems fit, the Registrar comes to the conclusion that the applicant union complies with the conditions necessary for registration specified in section 13, and that its membership was during the whole of the period of 55[three calendar months immediately preceding the calendar month in which it made the application] under this section larger than the membership of the registered union, he shall subject to the provisions of section 14 register the applicant union in place of the registered union 56[and issue a certificate of registration in such form as may be prescribed.]

(4) Every application made under this section shall be published in the prescribed manner not less than 14 days before the expiry of the period of the notice under sub-section (1).

SECTION 17: APPLICATION FOR RE-REGISTRATION

(1) Any union the registration of which has been cancelled on the ground that it was registered under a mistake or on the ground specified in sub-clause (ii) of clause (b) of section 15 may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed, apply for re-registration. The provisions of sections 13 and 14 shall apply in respect of such application.

(2) A union the registration of which has been cancelled on any other ground shall not, save with the permission of the 57[State Government, be entitled to apply for re-registration.

SECTION 18: LIABILITY OF UNION OR MEMBERS NOT RELIEVED BY CANCELLATION

Notwithstanding anything contained in any law for the time being in force, the cancellation of the registration of a union shall not relieve the union or any member thereof' from any penalty or liability incurred under this Act prior to such cancellation.

53. Subs, by Born. 74 of 1948.

54. Ins, by Mali. 22 of 1965.

55. Subs, by Born. 63 of 1953.

56. Added by Mah, 22 of 196

57, Subs, by the Adaptation of 1,aws Order, 1950

SECTION 19: PERIODICAL RETURNS TO BE SUBMITTED TO REGISTRAR

Every registered union shall submit to the Registrar on such dates and in such manner as may be prescribed, periodical returns of its membership.

SECTION 20: APPEAL TO INDUSTRIAL COURT FROM ORDER OF REGISTRAR *.** (1) Any party to a proceeding before the Registrar may within 30 days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Court:

Provided that the Industrial Court may for sufficient reason admit any appeal made after the expiry of such period.

(2) The Industrial Court may admit an appeal under sub-section (1) if on a perusal of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or otherwise erroneous.

(3) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Court shall be sent to the Registrar.

SECTION 21: PUBLICATION OF ORDER

Every order passed under sections 14, 15 or 16 and every order passed in appeal under section 20 shall be published in the prescribed manner.

SECTION 22: REGISTRATION OF UNION FOR MORE THAN ONE LOCAL AREA

Subject to the foregoing provisions of this Chapter, a union may in the prescribed manner be registered for an industry for more local areas than one.

CHAPTER IV-APPROVED UNIONS

SECTION 23: APPROVED LIST: MAINTENANCE OF CONDITIONS FOR BEING ENTERED IN

(1) On an application being made in the prescribed form, by a union for being entered in the approved list, the Registrar may after holding such inquiry as he deems fit enter the union in such list if he is satisfied that the union has made rules, that the provision of the said rules are being duly observed by the unions, and that the rules provide that

(i) its membership subscription shall be not less than 59[fifty paise] per month;

(ii) its execution committee shall meet at intervals of not more than three months:

(iii) all resolutions passed, whether by the executive committee or the general body of the union, shall be recorded in a minute book kept for the purpose;

(iv) an auditor appointed by Government may audit its accounts at least once in each financial year;

(v) every industrial dispute in which a settlement is not reached by conciliation shall be offered to be submitted to arbitration, and that arbitration under Chapter XI shall not be refused by it in any dispute;

55. Del. by Mali. 22 of 1965.

59. Subs. by Mali. 22 of 1965.

(vi) no strike 1[shall be sanctioned, resorted to or supported] by it unless all the methods provided by or under this Act for the settlement of an industrial dispute have been exhausted 2[or unless the circumstances mentioned in the proviso to clause (h) of sub-section (1) of section 97 obtain] and the

majority of its members vote by ballot in favour of such strike;

3[(vii) no stoppage which is illegal under this Act shall be sanctioned resorted in, or supported by it;]

2[(viii) no go slow' shall be sanctioned, resorted to, or supported by it:

Provided that the Registrar shall not enter a union in the approved list if he is satisfied that it is not being conducted bona fide in the interest of its members but to their prejudice.

2[**Provided further that,-**

(a) the Registrar shall not entertain any fresh application by any union unless its previous application for being entered in the approved list is finally disposed of by him;

(h) when two or more unions fulfilling the conditions necessary for being entered in the approved list apply in respect of the same industry in any local area in the same calendar month, the union having the largest membership of employees in the industry in the calendar month immediately preceding the calendar month in which they apply, shall be entered in the approved list;

(C) where after receipt of any application from any union under sub-section (1) any other union or unions apply for being entered in the approved list, for the same industry in the same local area in any subsequent calendar month, such application or applications shall not be considered unless the application received first is disposed of by the Registrar.

Explanation.- "Member" for the purposes of clause (vi) means a member of the union for the purposes of the Indian Trade Unions Act, 1926.

(2) The 4[State Government may by notification in the Official Gazette direct that in the case of any union or class of unions specified in the notification the membership subscription may, subject to a minimum of 5[twenty five paise] per month, be less than 3[fifty paise].

(3) Notwithstanding anything contained in sub-section (1) there shall not at any time be more than one approved union in respect of any industry in a local area.

(4) Any union complying with the conditions specified in sub- section (1) and having a larger membership in an industry in a local area than an approved union for such industry 6[in that local area] shall on application in that behalf be entered in the approved list in place of such approved union 7[by the Registrar 5[if after holding such inquiry as he deems fit, he is satisfied that the applicant union has got the larger membership in such industry in that local area than the approved union in the calendar month preceding the calendar month in which such application is made;

1. Subs. by Mah, 22 of 1965.

2. Ins, by Mah. 22 of 1965.

3. Ins, by Born. 74 of 1948.

4. Subs. by the Adaptation of Laws Order, 1950.

5. Subs, by Mah. 22 of 1965.

6. Ins, by ibid.

7. Addcd by Born. 63 of 1953.

8[**Provided that**, the Registrar shall not entertain-

(a) any such application unless a period of two years has elapsed since the approved union was entered in the approved list;

(b) any fresh application by the same union, unless a period of one year has elapsed from the date of disposal of its previous application by the Registrar.]

SECTION 23A: 9[APPROVED UNION TO CONTINUE TO BE SO FOR ALTERED LOCAL AREA FOR SOME TIME

Notwithstanding anything contained in section 23, if there is any alteration in the local area or areas,-

(a) an approved union in an industry in the altered local area or areas, or

(b) where two or more approved unions exist in an industry in the altered local area or areas the union having the largest membership, whether by agreement of the other approved unions or as determined by the Registrar after such inquiry as he deems fit,

shall be deemed to be the approved union for the altered local area or areas, as the case may be, for a period of twelve months from the date on which such alteration is effected, or where such approved union or any other union in the altered local area or areas makes an application under section 23 within such period until the disposal of such application by the Registrar].

SECTION 23B: 10[RECOGNISED UNION UNDER C.P. AN BERAR XXIII OF 1947 TO BE APPROVED UNION FOR PURPOSES OF THIS ACT

Notwithstanding anything contained in sub-section (1) of section 23, any union registered as a recognised union in any local area in respect of any industry under the Central Provinces and Berar Industrial Disputes Settlement Act, 1947, shall, on the commencement of the Bombay Industrial Relations (Extension and Amendment) Act, 1964, be deemed to be an union entered in the approved list as an approved union for that local area in respect of that industry.]

SECTION 24: REMOVAL FROM APPROVED LIST

The Registrar shall remove a union from the approved list if its registration under the Indian Trade Unions Act 1926, is cancelled, and may also so remove a union if after holding such inquiry if any as

he deems fit, he is satisfied that it -

(i) was entered in the list under mistake, misrepresentation or fraud; or

(ii) has, since being included in the approved list, failed to observe the conditions specified in section 23:

11[Provided that, the Registrar shall not, for a period of six months from the commencement of the Bombay Industrial Relations (Extension and Amendment) Act, 1964, remove any union entered in the approved list before such commencement, on the ground that such union has failed to observe any additional conditions introduced in section 23 by the Act, aforesaid.

Explanation.-For the purposes of clause (ii), failure by a union deemed to be approved union under section 23B to make rules providing for matters specified in section 23 within a period of six months from the commencement of the Bombay Industrial Relations (Extension and Amendment) Act, 1964 shall be deemed to be failure to observe the conditions specified in section 23.]

8 Added by Mah. 22 of 1965.

9 Ins, by Boim 63 of 1953.

10 Ins, by Malt 22 of 1965.

11 Added by *ibid*.

SECTION 24A: 12[APPEAL TO INDUSTRIAL COURT FROM ORDER OF REGISTRAR UNDER CHAPTER IV

(1) Any party to a proceeding before the Registrar may, within 30 days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Court:

Provided that the Industrial Court may for sufficient reason admit any appeal made after the expiry of such period.

(2) The Industrial Court may admit an appeal under sub-section (1), if on a perusal of the memorandum of appeal and the decision appealed against, it finds that the decision is contrary to law or otherwise erroneous.

(3) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit.

A copy of the order passed by the Industrial Court shall be sent to the Registrar].

SECTION 25: RIGHT OF OFFICERS OF APPROVED UNIONS.

13[such officers 14[members of the office staff] and members of an a union as may be authorised by

or under rules made in this behalf by the 15[State] Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employed concerned-

- (a) to collect sums payable by members to the union on the premises where wages are paid to them;
- (b) to put up or cause to be put up a notice board on the premises of the undertakings in which its members are employed and affix or cause to be affixed notices thereon;
- (c) for the purpose of the prevention or settlement of an industrial dispute
 - (i) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;
 - (ii) to meet and discuss with an employer or any person appointed by him for the purpose of the grievances of its members employed in his undertaking;
 - (iii) to inspect, if necessary, in any undertaking any place where any member of the union is employed.

SECTION 26: LEGAL AID TO APPROVED UNIONS AT GOVERNMENT EXPENSE IN IMPORTANT PROCEEDINGS

(1) An approved union is entitled to appear-

- (a) before a Labour Court in a proceeding for determining whether a strike, lock-out, 16[closure stoppage] or change is illegal, or
- (b) before the Industrial Court in a proceeding involving in the opinion of the Court an important question of law or fact, may apply to the Court for the grant of legal aid at the expense of the 15[state Government].

(2) A copy of every application made under sub-section (1) shall be sent to the Registrar with the least practicable delay.

Footnotes:

12. Ins, by Mah. 22 of 1965.

13. Subs, by 11001. 43 of 1948.

14. Ins, by Born. 63 of 1953.

15. Subs, by the Adaptation of Laws Order, 1950.

16. Ins, by Born. 74 of 1948.

(3) The Court to which an application is made under sub-section (1) may fix for the hearing of the application a day of which at least three days' clear notice shall be given to the Registrar.

(4) On the day fixed or as soon thereafter as may be convenient, the Court shall examine the witnesses, if any, produced by the union, and the Registrar, and may also examine the officers of the union, and shall make a memorandum of the substance of such evidence.

(5) The Court may after considering the evidence adduced under sub-section (4) either grant or refuse the application

(6) The 17[state Government may in consultation with the Industrial Court prescribe the fees for legal advice to, and appearance on behalf of a union before a Court.

(7) For the purpose of this section, legal aid includes advice to the union and the appearance before a Court of a legal practitioner on behalf of the union.

CHAPTER V-REPRESENTATIVES OF EMPLOYERS AND EMPLOYEES, AND APPEARANCE ON THEIR BEHALF

SECTION 27: RECOGNITION OF COMBINATION OF EMPLOYERS AS ASSOCIATION OF EMPLOYERS.

(1) The 17[state Government may from time to time by notification in the Official Gazette.

(a) recognise any combination of employers in an industry 18[in any local area] whether incorporated or not as an association of employers for the purposes of this Act, provided that one of the objects of such combination is the regulation of conditions of employment in the industry 18[in that local area];

(b) withdraw any recognition granted under clause (a):

Provided that no recognition shall be withdrawn unless an opportunity has been given to such association of employers to be heard.

(2) In any proceeding under this Act an association of employers shall be entitled to represent-

(a) any employer who is a member of the association;

(b) any employer connected with the same industry not being a member of the association, who has intimated in writing to the prescribed authority that he has agreed to be represented by the association in such proceeding; and any notice or intimation given by or to such association shall be deemed to have been given by or to every employer it is entitled to represent.

(3) Where more employers than one are affected, or under any of the provisions of this Act deemed to be affected, and no association of employers is under sub-section (2) entitled to represent all of them, the representative determined in the prescribed manner shall be entitled to act as their representative.

SECTION 27AA: RECOGNISED ASSOCIATION OF EMPLOYERS TO CONTINUE TO BE SO FAR ALTERED LOCAL AREAS

Notwithstanding anything contained in this Act, if there is any alteration in any local area or areas notified for purposes of this Act

17. Subs, by the Adaptation of Laws Order, 1950, 18. Ins. by Mali. 22 of 1965.

(a) the recognised association of employers entitled under this Act to represent under sub-section (2) of section 27 in any industry immediately before the alteration in the local area or areas concerned; or

(h) where more than one recognised association of employers are entitled to represent under sub-section (2) of section 27, the association having the largest membership of employers connected with the same industry,

shall be entitled to represent for the altered local area or areas, as the case may be for a period of twelve months from the date on which such alteration is effected or if an application under section 27 is made within such period by such association or by any other association in the altered local area or areas, until the disposal of such application by the State Government.]

SECTION 27A: APPEARANCE ON BEHALF OF EMPLOYEES

Save as provided in section 32, 20[33 and 33A] no employee shall be allowed to appear or act in any proceeding under this Act except through the representative of employees.]

SECTION 28: ELECTION OF REPRESENTATIVES OF EMPLOYEES

(1) Where there is no Representative Union in respect of any industry in any local area, the employees in each undertaking in the industry and in each occupation therein may, in the prescribed manner, elect five persons from among themselves to represent them for the purposes of this Act:

Provided that no such persons shall be elected for any occupation the number of employees in which does not exceed ten.

(2) The persons, if any, elected under sub-section (1) shall function in such manner as may be prescribed.

(3) Within 21[two years] from the date on which an election under sub-section (1) is held, and within each succeeding 21[two years] thereafter, a fresh election shall be held:

Provided that any person may be re-elected at any such election.

(4) The employees may in the prescribed manner recall any or all of the person elected under sub-section (1) or (3).

(5) Vacancies in the number of the persons elected under sub-section (1) or (3) shall be filled by election in the prescribed manner.

SECTION 29: ACT OR DECISION OF MAJORITY TO BE DEEMED TO BE ACT OR DECISION OF ALL

Any act or decision of the majority of the Persons elected under section 28 by any employees shall be deemed to be the act or decision of all the persons so elected by them.

SECTION 30: REPRESENTATIVE OF EMPLOYEES

20[subject to the provisions of section 33A, the following shall be entitled] 19[to appear or act] in the order of reference specified as the representative of employees in an industry in any local area

(i) a Representative Union for such industry;

(ii) a Qualified or Primary Union of which the majority of employees directly affected by the change concerned are members;

(iii) any Qualified or Primary Union in respect of such industry authorised in the prescribed manner in that behalf by the employees concerned;

(iv) the Labour Officer if authorised by the employees concerned;

(vi) the Labour Officer:

19. Ins, by Born. 55 of 1949.

19a. Subs, by Born. 55 of 1949.

20. Subs, by Mah. 22 of 1965.

21. Subs, by Itorn. 74 of 1948.

Provided-

Firstly, that the persons entitled 22[to appear or act] under clause (v) may authorise any Qualified or Primary Union in respect of such industry 22[to appear or act] instead of them;

Secondly, that where the Labour Officer is the representative of the employees, he shall not enter

into any agreement under section 44 or settlement under section 58 unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner;

Thirdly, where in any proceeding the persons entitled 22[to appear or act] under clause (v) are more than five, the prescribed number elected from amongst them in the prescribed manner shall be entitled 24[to appear or act] instead.

SECTION 31: REGISTERED OR REPRESENTATIVE UNION TO CONTINUE TO BE SO FOR ALTERED LOCAL AREA FOR SOME TIME

Notwithstanding anything contained in this Act, if there is any alteration in any local area or areas notified for the purposes of this Act,-

(a) a registered or representative union entitled under this Act to appear or act as a representative of employees in an industry immediately before the alteration in the local area or areas concerned, or

(b) where more than one registered or representative union are entitled to appear or act as representative of employees in an industry under this section, the union having the largest membership of employees employed in the industry, where by agreement of the other registered or representative unions or as determined by the Registrar after such inquiry as he thinks fit, shall be entitled to appear or act for the altered local area or areas, as the case may be, for a period of twelve months from the date on which such alteration is effected or if an application under section 13 is made within such period by such union or, any other union in the altered local area or areas, until the disposal of such application by the Registrar].

SECTION 32: PERSONS WHO MAY APPEAR IN PROCEEDINGS

A Conciliator, a Board, an Arbitrator, a Wage Board, a Labour Court and the Industrial Court may, if he or it considers it expedient for the ends of justice, permit an individual, whether an employee or not, to appear in any Proceeding before him or it:

Provided that 25[subject to the provisions of section 33A, no such individual shall be permitted to appear in any proceedings 25[not being a proceeding before

(v) the persons elected by the employees in accordance with the provisions of Section 28 or where the proviso to sub-section (1) thereof applies, the employees themselves; a Labour Court or the Industrial Court in which the legality or propriety of an order of dismissal, discharge, removal, retrenchment, termination of service or suspension of an employee is under consideration)] in which a Representative Union has appeared as the representative of employees].

22. Subs, by Born. 55 of 1949.

23. Subs, by Born. 63 of 1953.

24. Subs, by Born. 55 of 1949.

25. Ins, by Mah. 22 of 1965.

26. Ins. *ibid.* -

SECTION 33: APPEARANCE FOR EMPLOYEE

Notwithstanding anything contained in any other provision of this Act an employee 28[or a representative union] shall be entitled to appear through any person,

(a) in all proceedings before the Industrial Court; 29[aa in all proceedings before a Wage Board;]

(h) in proceedings before a Labour Court for deciding whether a strike, lock-out 30[closure or stoppage] or change or an order passed by an employer under the standing orders is illegal] * * *

(c) in such other proceedings as the Industrial Court may, on application made in that behalf, permit:

Provided that a legal practitioner shall not be permitted under clause (c) to appear in any proceeding under this Act except before a Labour Court 32[as provided in section 8A] or the Industrial Court:

33[Provided further that 34[subject to the provisions of section 33A,] no employee shall he entitled to appear through any person in any proceeding under this Act 35[not being a proceeding before a Labour Court or the Industrial Court in which the legality or property of an order of dismissal, discharge, removal, retrenchment, termination of service or suspension of an employee is under consideration)] in which a Representative Union has appeared as the representative of employees.]

36[**Provided also that** save as aforesaid, any person (other than the Representative Union or legal practitioner) shall not be permitted to appear on behalf of an employee in any proceeding before any Court tinder this Act, save with the permission of the Court].

SECTION 33A: 37[PERSONS WHO MAY APPEAR IN PROCEEDING IN WHICH THERE IS DISPUTE BETWEEN EMPLOYEES AND EMPLOYEES

(1) In any dispute between the employees and employees referred to arbitration of a Labour Court or the Industrial Court tinder section 72, all persons, who are parties to the dispute, shall be entitled to appear and act in the proceedings before such Court:

Provided that, where the number of employees on either side exceeds five, then such employees shall elect, in the manner prescribed, two persons from amongst themselves to appear and act for them.

(2) If, a Representative Union desires to be heard in respect of such dispute, it may, on application

made to the Court, also be heard by such Court.]

Footnotes:

27. Subs, by Born. 55 of 1949.

28. Ins, by Born. 43 of 1948.

29. Ins, by Ibid.

30. Ins, by Born. 74 of 1948.

31. Deleted by Mali. 22 of 1965.

32. Ins, by Born. 55 of 1949.

33. Added by ibid.

34. Ins, by Mah. 22 of 1965.

35. Added by ibid.

CHAPTER VI-POWERS AND DUTIES OF LABOUR OFFICERS

SECTION 34: POWERS AND DUTIES OF LABOUR OFFICER

(1) A Labour Officer shall exercise the powers conferred, and perform the duties imposed on him by or under this Act.

(2) For the purpose of exercising such powers and performing such duties a Labour Officer may, subject to such conditions as may be prescribed, at any time during working hours, and outside working hours after reasonable notice, enter and inspect- -

(a) any place used for the purpose of any industry;

(b) any place used as the office of any union;

(c) any premises provided by an employer for the residence of his employees, and shall be entitled to call for and inspect all relevant documents which he may deem necessary for the due discharge of his duties and powers under this Act.

(3) All particulars contained in or information obtained from any document inspected or called for under sub-section (2) shall, if the person in whose possession the document was so requires, be treated as confidential.

(4) A Labour Officer may, after giving reasonable notice, convene a meeting of employees for any of the purposes of this Act, on the premises where they are employed, and may require the employer to affix a written notice of the meeting at such conspicuous place in such premises as he may order

and may also himself affix or cause to be affixed such notice. The notice shall specify the date, time and place of the meeting, the employees or class of employees affected, and the purpose for which the meeting is convened:

Provided that during the continuance of a lock-out which is not illegal, no meeting of employees affected thereby shall be convened on such premises without the employer's consent.

(5) A Labour Officer shall be entitled to appear in any proceeding under this Act.

(6) It shall be the duty of the Labour Officer to-

(a) watch the interests of employees and promote harmonious relations between employers and employees;

(b) investigate the grievances of employees and represent to employers such grievances and make recommendations to them in consultation with the employees concerned for their redress;

(c) report to the 36[state Government the existence of any industrial dispute of which no notice of change has been given, together with the names of the parties thereto:

Provided that the Labour Officer shall not-

(a) appear in any proceeding in which the employees who are parties thereto are represented by a Representative Union.

36. Subs, by the Adaptation of Laws Order, 1950.

(b) where there is 37[an approved union] for an industry in a local area, 38[except after consultation with the union], act under clause (b) of sub-section (6) iii respect of the employees.

CHAPTER VII-STANDING ORDERS

SECTION 35: SETTLEMENT OF STANDING ORDERS BY COMMISSIONER OF LABOUR

(1) Within six weeks from the date of the application of this Act to an industry, every employer therein shall submit for approval to the Commissioner of Labour in the prescribed manner draft standing orders regulating the relations between him and his employees with regard to the industrial matters mentioned in Schedule I:

Provided that where an undertaking in an industry is started after the application of this Act to such industry, the draft standing orders shall be submitted within six months of the starting of the

undertaking.

(2) On receipt of the draft standing orders the Commissioner of Labour shall, after consulting in the prescribed manner the representatives of employees and employers and such other interests concerned in the industry and making such inquiry as he deems fit, settle the said standing orders.

(3) The Commissioner of Labour shall forward a copy of the standing orders so settled to the Registrar who shall within fifteen days of their receipt record them in the register kept for the purpose.

(4) Standing orders so settled shall come into operation from the date of their record in the register under sub-section (3).

(5) Until standing orders in respect of an undertaking come into operation under the provisions of sub-section (4), model standing orders, if any, notified in the Official Gazette by the State Government in respect of the industry shall apply to such undertaking.

SECTION 36: APPEAL TO INDUSTRIAL COURT

(1) Any person aggrieved by any decision of the Commissioner of Labour under this Chapter may within thirty days from the date of their coming into operation appeal to the Industrial Court:

Provided that the Industrial Court may for sufficient cause, admit any appeal after the expiry of the period of thirty days.

(2) On an appeal being filed, the Industrial Court may on the application of any party to such appeal and on such conditions as it may think fit stay the operation of all or any of such standing orders until the appeal is decided.

(3) The Industrial Court in appeal may confirm, modify, add to or rescind all or any of such standing orders.

(4) The Industrial Court shall fix the date on which all or any of the standing orders settled by it under sub-section (3) shall come into operation.

(5) A copy of the orders passed by the industrial Court under sub-sections (3) shall be sent to the Registrar who shall record them in the register referred to in sub-section (3) of section 35.

SECTION 37: REVIEW

(1) Any person aggrieved by a decision of the Industrial Court under section 36 may within thirty days from the date of the decision apply to the Industrial Court for a review of the said decision:

37. Subs, by Ibm. 43 of 1948.

38. Subs, by Mah. 22 of 1965.

39. Subs, by the Adaptation of Laws Order, 1950.

40[**Provided that** the Industrial Court may for sufficient cause admit any such application after the expiry of the said period of ' thirty days.]

(2) The Industrial Court shall not grant such application unless it is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of' due diligence was not within the knowledge of the party making the application or could not be produced by him at the time when it decision was made, or that there has been some mistake or error apparent on the face of the record or that there is any other sufficient reason for granting such application.

(3) The provisions of sub-section (2), (3), (4) and (5) of section 36 shall, so far as may be, apply to proceedings under sub-section (1) in the same manner as they apply to an appeal against standing orders settled by the Commissioner of Labour under sub-section (2) of' section 35.

SECTION 38: NO ALTERATION IN STANDING ORDERS FOR ONE YEAR

(1) No alteration shall be made for a period of' one year from the date of its coming into operation, in any standing order settled under any of the foregoing provisions of this Chapter except by the Industrial Court in appeal or review where such appeal or review lies.

(2) Any employer or employee may apply to the Commissioner of Labour for a change in-

(a) any standing order settled under sub-section (2) of section 35, which has not been appealed against, or

(b) any standing order settled in appeal under sub-section (3) of section 36, in respect of which no application for review has been made, or

(c) any standing order settled in review under section 37, after the expiry of one year from the date of such standing order coming into operation.

SECTION 39: ALTERATION IN STANDING ORDERS

(1) On receipt of an application under sub-section (2) of section 38 the Commissioner of Labour shall, after giving the other party an opportunity of being heard and after consulting such other interests in the industry as in his opinion are affected, pass such order as he deems fit, and, if the order effects an alteration in any standing order, forward a copy of the standing order as so altered to the Registrar who shall, within fifteen days of its receipt record it in the register referred to in sub-section (3) of section 35. The standing order as so altered shall come into operation from the date of

its record in the register

(2) The provisions of sections 36, 37 and 38 shall, so far as may be, apply to an order passed by the Commissioner of Labour under sub-section (1) in the same manner as they apply to standing orders settled under sub-section (2) of section 35.

SECTION 40: STANDING ORDERS TO BE DETERMINATIVE

(1) Standing orders in respect of an employer and his employees settled under this Chapter and in operation, or where there are no such standing orders, model standing orders, if any, applicable under the provisions of sub-section (5) of section 35 shall be determinative of the relations between the employer and his employees in regard to all industrial matters specified in Schedule I.

40. Added by Born. 63 of 1953.

(2) Notwithstanding anything contained in sub-section (1) the 41[state Government may refer, or an employee 42[or a representative union] may apply in respect of any dispute of the nature referred to in clause (a) of paragraph A of section 78, to a Labour Court.

40A: 43[MODEL STANDING ORDERS, IN RESPECT OF ADDITIONAL OR ALTERED MATTERS TO APPLY TO CERTAIN WORKMEN, IF THEY ARE NOT LESS ADVANTAGEOUS

Notwithstanding anything contained in the foregoing provisions of this Chapter, any model standing orders made and notified in this Official Gazette by the State Government from time to time, in respect of any additional matters included in Schedule I, or any alteration made in that Schedule, on or after the date of commencement of the Bombay Industrial Relations (Amendment) Act, 1977, shall unless such model standing orders are held by the Commissioner of Labour, to be less advantageous to the employee than the corresponding standing orders applicable to them, also apply in relation to such employees in the undertaking in respect of which standing orders have already been settled under section 35.]

SECTION 41: ACT XX OF 1946 NOT TO APPLY TO CERTAIN INDUSTRIES

The provisions of the Industrial Employment (Standing Orders) Act, 1946, shall not apply to any industry to which the provisions of this Chapter are applied.

CHAPTER VIII-Changes

SECTION 42: NOTICE OF CHANGE

(1) Any employer intending to effect any change in respect of an industrial matter specified in Schedule II shall give notice of such intention in the prescribed form to the representative of employees. He shall send a copy of such notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed. He shall also affix copy of such notice at a conspicuous place on the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any particular case.

(2) Any employee desiring a change in respect of an industrial matter not specified in Schedule I or III give a notice in the prescribed form to the employer through the representative of employees, who shall forward a copy of the notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(3) When no settlement is arrived at in any conciliation proceeding in regard to any industrial dispute which has arisen in consequence of a notice relating to any change given under sub-section (1) or sub-section (2), no fresh notice with regard to the same change or a change similar in all material particulars shall be given before the expiry of two months from the date of the completion of the proceeding within the meaning of section 63. If at any time after the expiry of the said period of two months, any employer or employee again desires the same change or a change similar in all material particulars, they shall give fresh notice in the manner provided in sub-section (1) or (2), as the case may be.

(4) Any employee 44[or a representative union] desiring a change in respect of (i) any order passed by 45[the employer under standing orders, or (ii) any industrial matter arising out of the application or interpretation of standing orders, or (iii) an industrial matter specified in Schedule III, 46[except item (5) thereof] shall make an application to the Labour Court 47[and as respects change desired in any industrial matter specified in item 5 of Schedule III, to the Industrial Court]:

Provided that no such application shall lie unless the employee 48[or a representative union] has in the prescribed manner approached 49[the employer with a request for the change and no agreement has been arrived at in respect of the change within the prescribed period.

41. Subs, by the Adaptation of Laws Order, 1950.

42. Ins, by Born. 63 of 1953.

43. Added by Mah. 47 of 1977.

44. Ins, by Born. 43 of 1948.

45. Subs. by ibid

SECTION 43: NOTICE OF CHANGE WHEN TO BE DEEMED GENERAL NOTICE

50[Where an employer gives notice of a proposed change under sub-section (1) of section 42 affecting some of the employees in an industry in a local area, any other employer or an association of employers or the representative of any employees engaged in the industry in the local area may, within seven days from the date of service of such notice, intimate in writing to such employer that other employers, or as the case may be, other employees, engaged in the industry in the area and mentioned in such intimation are affected by the change. The employer or employers concerned, shall affix a copy of such intimation at a conspicuous place on every premises where the employees concerned are employed for work.

(2) Where an employee gives notice of a proposed change under sub-section (2) of section 42 affecting one or some of the employers in an industry in a local area the representative of employees or any employer or an association of employers engaged in the industry in the local area may,50[within thirty days from the date of service of such notice, give a special notice in writing to the employee and his employer, or as the case may be, the representative of employees, that other employees or as the case may be, other employer, engaged in the industry in the area and mentioned in such special notice, are affected by the change. The employer or employers concerned shall affix a copy of such special notice at a conspicuous place on every premises where the employees concerned are employed for work.]

(3) A copy of every intimation under sub-section (1) and special notice under sub-section (2) shall be sent to the Commissioner of Labour, the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(4) On an intimation being given under sub-section (1) or a special notice being given under sub-section (2) and the provisions of sub-section (3) being complied with, the employees mentioned in the intimation or employers mentioned in the special notice, as the case may be, shall also, for the purposes of this Act, be deemed to be, affected by such change, and to have been given notice under sub-section (1) or (2), as the case may be, of section 42.

46. Ins, by Mah. 22 of 1965.

47. Added by *ibid*.

48. Ins, by Born. 43 of 1948.

49. Subs, by *ibid*.

50. Subs, by Born. 74 of 1948.

50a. Subs, by Mah. 22 of 1965.

(5) Where an employer or an employee gives a notice of a proposed change under sub-section (1) or sub-section (2), as the case may be, of section 42, and such change, in the Opinion of the State Government affects the majority of employers or employees engaged in an industry or occupation in the local area, the State Government may by notification in the Official Gazette, declare that the whole of such industry or occupation, as the case may be, is affected by such change and thereupon it shall be deemed to be so affected.

SECTION 44: AGREEMENT REGARDING CHANGE

(1) If within seven days from the date of service of a notice under section 42 or an intimation or special notice under section 43 or the date of publication of a notification under sub-section (5) of section 43, or within such further period as may be mutually fixed by the employers affected and the representative of the employees affected an agreement is arrived at in regard to the proposed change, a memorandum of such agreement signed by the employer or employers as well as by the representative of employees shall be forwarded in the prescribed manner to the Chief Conciliator, the Registrar and the Labour Officer

Provided that where the employees deemed to be affected under sub-section (4) of section 43 are in the opinion of the State Government the majority of the employees in the industry, or the whole industry is deemed to be affected under sub-section (5) thereof, the Labour Officer shall not enter into any agreement under this sub section.

(2) On receipt of such memorandum of agreement the Registrar shall enter the same in a register maintained for the purpose unless on inquiry he is satisfied that the agreement was in contravention of any of the provisions of this Act or was the result, of mistake, misrepresentation, fraud, undue influence, coercion or threat.

(3) An appeal shall lie to the Industrial Court against an order of the Registrar refusing to register an agreement under sub-section (2). The provisions of section 20 shall apply to such appeal.

SECTION 44A: REGISTRATION OF AGREEMENTS UNDER SECTION 42(4)

Where an agreement referred to in the proviso to sub-section (4) of section 42 is arrived at, a memorandum of such agreement may be forwarded by either party to the Registrar by registered post. The provisions of sub-sections (2) and (3) of section 44 shall then apply for registration of such agreement.

SECTION 44B: CERTAIN SETTLEMENTS DEEMED TO BE AGREEMENTS

Where a settlement is arrived at within two months from the date of the completion of any conciliation proceedings, such settlement shall be deemed to be an agreement for the purposes of section 44 and the provisions of the said section 44 shall apply for registration of such agreement.]

SECTION 45: AGREEMENT TO COME INTO FORCE

An agreement registered under section 44 shall come into operation on the date specified therein or if no date is so specified on its being recorded by the Registrar.

SECTION 46: ILLEGAL CHANGE

(1) No employer shall make any change in any standing order settled under Chapter VII without following the procedure prescribed there for in this Act.

(2) No employer shall make any change in any industrial matter mentioned in Schedule II

53[(ai) before giving notice of the change as required by the provisions of sub-section(1) of section 42]

(i) within the period provided for in sub-section (1) of Section 44 unless an agreement is arrived at;

54[(ii) where no agreement is arrived at before the completion of the conciliation proceedings and during the period of ten days thereafter;]

55[(iii) where no settlement is arrived at, before the date on which the award of the arbitrator or the Industrial Court, or as the case may be, decision of the Wage Board, comes into operation].

(3) No employer shall make any such change in contravention of the terms of a settlement, 56[effective award, registered agreement or effective order or decision of a Wage Board].

(4) Any change made in contravention of the provisions of sub- section (1), (2) or (3) shall be illegal.

(5) Failure to carry out the terms of any settlement, award, 57[registered agreement or effective order or decision of a Wage Board], 55[a Labour Court or the Industrial Court affecting Industrial matters] shall be deemed to be an illegal change.

SECTION 47: EMPLOYER TO MAKE CHANGE ETC, WITHIN CERTAIN TIME

All employer required under the terms of any 56[effective decision or order of a Wage Board,] Labour Court or the Industrial Court to carry out a change or withdraw an illegal change, shall comply with such requirement within such limit as the 58[Wage Board or Court giving or making the decision or order prescribes and where no time is prescribed by it within forty-eight hours of the

giving or making of tile decision or order 59[or as the case may be, of the declaration referred to ill section 76-A or 86-F.]

CHAPTER IX-.JOINT COMMITTEES

SECTION 48: CONSTITUTION OF JOINT COMMITTEES

(1) A Joint Committee may he constituted for an undertaking or occupation with the consent of the employer and the registered union for the industry for the local area 58[and shall he constituted irrespective of such consent, if the 60[state]Government on an application made to it in this behalf by the registered union so directs]:

Provided that no Joint Committee shall be so constituted in respect of all undertaking or occupation where there is no representative union, unless not less than fifteen percent of the employees are members of a registered union.

(2) On application made in this behalf by the employer or the Union to the registrar a Joint Committee shall be entered in a list of Joint Committees maintained by him, and thereupon all the provisions of this Act shall apply to the Joint Committee.

Footnotes:

53.Ins. by Born. 63 of 1953.

54. Subs, by bid.

55, Subs. b Mah. 22 of 1965.

56. Subs. by Born. 43 of 1948.

57. Subs. b ibid.

58. Ins. 1w Born. 55 of 1949.

58a. Ins, by Horn, 43 of 1948.

59. Added by Born. 43 of 1948.

60. Subs. by the Adaptation of l.as Order, 1950.

61[(3) Every Joint Committee shall stand dissolved whenever the condition specified in the proviso to sub-section (1) ceases to be complied with; and a Joint Committee constituted with the consent of the employer and the registered union shall also stand dissolved on the expiry of the period of a three months' notice in that behalf being given by the employer to the union, or by the union to the

employer.]

SECTION 49: COMPOSITION OF JOINT COMMITTEE

(1) A Joint Committee shall consist of such number of members as may be prescribed; half the number shall in the prescribed manner be nominated by the union 62[from among employees in the undertaking or occupation concerned, and the other half appointed by the employer concerned.

63[Where the Joint Committee is to be constituted in pursuance of a direction of the 64[state Government on an application made by the registered union, the union and the employer shall nominate and appoint the members within such period as the 64[state Government may by order specify. A copy of such order shall, as soon as may be, be given to the union and the employer in the manner prescribed.

(2) A chairman shall be appointed in accordance with rules made in this behalf. He shall perform his duties in the prescribed manner.

SECTION 50: PROCEEDINGS OF JOINT COMMITTEE

(1) A representative of the registered union may attend any meeting of the Joint Committee, to advise the members representing the employees.

(2) The proceedings of the Joint Committee shall be conducted in the manner prescribed.

(3) The proceedings shall be recorded in a minute book 65[in a language understood by a majority of the employees.]

SECTION 51: PROPOSAL FOR CHANGE

(1) Any member of a Joint Committee may move a proposal regarding any change other than a change in any standing order or regarding any other matter affecting the relations between the employer and the employees in the undertaking or occupation, as the case may be, for which the Committee is constituted:

Provided that no such proposal shall be moved for a change in respect of any industrial matter if such change could not for the time being be made under this Act.

(2) The decision of the Joint Committee regarding any change proposed under the provisions of sub-section (1) together with all necessary particulars regarding such change shall within forty-eight hours be communicated to the registered union and the employer, as well as the Labour Officer and the Commissioner of Labour.

SECTION 52: SPECIAL INTIMATION FOR CHANGE AND SPECIAL

APPLICATION TO LABOUR COURT

(1) Where an agreement is arrived at between the employer and the union regarding any change proposed in the Joint Committee under sub-section (1) of section 51, a memorandum of such agreement signed by them shall be forwarded by the employer in the prescribed manner to the Registrar and the Labour Officer and all the provisions of this Act shall apply to such agreement as they would apply in respect of an agreement under sub-section (1) of section 44.

Footnotes:

61. Subs, by Born. 43 of 1948.

62. Ins, by Boin. 74 of 1948.

63. Ins, by Born. 43 of 1948.

64. Subs, by the Adaptation of Laws Order, 1950.

65. Added by Born. 63 of 1953.

(2) If within seven days from the receipt of a decision under sub-section (2) of section 51, the employer or the union sends an intimation (hereinafter called special intimation) in the prescribed form to the Conciliator for the industry for the local area stating that the change proposed in the Joint Committee, being, a change in respect of a matter not specified in Schedule I or III, or such change with specified alterations, should be made, and that no agreement in respect thereof has been arrived at between the union and the employer, the Conciliator shall forthwith enter the case as an industrial dispute in the register kept under section 55, and the provisions of this Act shall apply to it as if a statement is submitted under section 54.

(3) If within seven days from the receipt of a decision under sub-section (2) of section 51 regarding a matter specified in clause (a) of paragraph A of sub-section (1) of section 78 the employer or union sends a special application in respect of such matter to the Labour Court having jurisdiction, the Labour Court shall forthwith proceed to decide the dispute under the provisions of Chapter XII.

(4) A copy of every special intimation sent under sub-section (2) shall be forwarded to the Chief Conciliator, the Conciliator for the industry for the local area concerned, the Registrar, the Labour Officer and such other person as may be prescribed.

SECTION 53: DECISION OF RESPECTIVE REPRESENTATIVES BINDING ON UNION AND EMPLOYER.

(1) The union may authorise such proportion (hereinafter called the authorised proportion), not being less than three-fourths of the members representing the employees on the Joint Committee, to

accept or reject on its behalf any proposal or class of proposals moved in the Committee.

(2) The employer may authorise a proportion of the members representing him on the Committee to accept or reject on his behalf any proposal or class of proposals moved in the Committee.

(3) For a period of two months after a decision of the Committee, no notice of change under section 42, or special intimation or application under section 52 shall be given or made-

(a) where the union acts under sub-section (1), by the employees concerned or the union, contrary to the decision of the authorised proportion accepting a Proposal in respect of which it is authorised; and

(h) Where the employer acts under sub-section (2), by the employer, contrary to the decision of the authorised proportion of his representatives.

(4) The union whenever it acts under sub-section (1), and the employer whenever he acts under sub-section (2), shall communicate the fact to the Chief Conciliator, the Conciliator for the industry for the local area concerned and the Registrar.

CHAPTER X-CONCILIATION PROCEEDINGS

SECTION 54: REPORT OF DISPUTE TO BE SENT TO REGISTRAR, CHIEF CONCILIATOR AND CONCILIATOR

(1) If any proposed change in respect of which notice is given under section 42, or an intimation or special notice is given under section 43 is objected to by the employer or the employee, as the case may be the party who gave such notice, intimation or special notice shall, if he still desires that the change should be effected, Forward to the Registrar, the Chief Conciliator and the Conciliator for the local area for the industry concerned a full statement of the case in the prescribed form within fifteen days from the date of service of such notice, intimation or special notice on the other party or within one week of the expiry of the period fixed by both the Parties under sub-section (1) of section 44 for arriving at an agreement.

Explanation.- For the purposes of this sub-section a change shall be deemed to be objected to by the employer or employee, as the case may be, if within seven days from the date of service of such notice, intimation or special notice or within the period fixed by both the parties under sub-section (1) of section 44 for arriving at an agreement a memorandum of agreement has not been forwarded to the Registrar under the said sub-section.

(2) When a notification is issued under sub-section (5) of section 43 in respect of such change, any employer or employee in the industry may within seven days from the date of publication of such notification forward such statement to the said officers.

SECTION 55: COMMENCEMENT OF CONCILIATION PROCEEDINGS

On receipt of the statement of the case under section 54 of the Conciliator shall, except in a case in which by reason of the provisions of section 64 a conciliation proceeding can not be commenced,

66[within a week enter the industrial dispute in the register kept for the purpose and thereupon the conciliation proceeding shall be deemed to have commenced from 66[the date of such entry in the register, which date shall be communicated by him to the parties concerned I.

SECTION 56: CONCILIATION PROCEEDING

(1) The Conciliator shall hold the conciliation proceeding in the prescribed manner.

(2) It shall be the duty of the Conciliator to endeavour to bring about the settlement of the industrial dispute and for this purpose the Conciliator shall enquire into the dispute and all matters affecting the merits thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to arrive at a settlement or for any other reason.

SECTION 57: POWER OF CHIEF CONCILIATOR TO INTERVENE

(1) It shall be lawful for the Chief Conciliator to intervene or to direct any Conciliator to intervene at any stage in any conciliation proceeding held by another Conciliator, and thereafter the Chief Conciliator or the Conciliator so directed shall hold the conciliation proceeding with or without the assistance of the Conciliator.

(2) The Chief Conciliator may from time to time issue such directions as he deems fit to any Conciliator at any stage of a conciliation proceeding.

SECTION 58: SETTLEMENT AND REPORT

(1) If a settlement of an industrial dispute is arrived at in a conciliation proceeding, a memorandum of such settlement shall be drawn up in the prescribed form by the Conciliator and signed by the employer and the representatives of employees. The Conciliator shall send a report of the proceeding along with a copy of the memorandum of settlement to the Registrar and the Chief Conciliator. The Registrar shall record such settlement in the register of agreements and shall then publish it in the prescribed manner. The change, if any, agreed to by such settlement shall come into operation from the date agreed upon in such settlement where no such date is agreed upon from the date on which it is recorded in the register.

66. Subs. b Born. 63 ul 1953.

(2) If no such settlement is arrived at, the Conciliator shall, as soon as possible after the close of the proceeding before him, send a full report to the Chief Conciliator stating the steps taken by him for

ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, settlement could not be arrived at:

Provided that where such Conciliator is the Chief Conciliator such report shall be forwarded by him to the 67[State Government.

(3) The Chief Conciliator shall forward the report submitted to him under sub-section (2) to the 67[State Government with such remarks as he deems fit.

(4) The 67[State Government shall publish the report of the Conciliator or Chief Conciliator forwarded to it under the proviso to sub-section (2) or under sub-section (3) except in cases in which the dispute is referred to a Board, or the parties to the dispute enter into a submission in respect of it.

68(4A) Notwithstanding anything contained in this section where an industrial dispute is settled in regard to some of the industrial matters included therein and has not been settled in regard to others and the parties agree in writing that the settlement shall take place in regard to the industrial matters so settled, the settlement of the said industrial matter shall be registered and a report of the industrial matters not settled shall be sent in accordance with the provisions of this section.

(5) Before the close of the proceeding before him the Conciliator shall ascertain from the parties whether they are willing to submit the dispute to arbitration.

(6)(a) Notwithstanding anything contained in the foregoing sub-sections, if at any stage of a conciliation proceeding the parties agree in writing to submit the dispute to arbitration, the agreement shall be deemed to be a submission within the meaning of section 66.

(b) Where the agreement provides for arbitration either by a Labour Court or by the Industrial Court, the Conciliator shall forthwith refer the dispute to the Labour Court or the Industrial Court, as the case may be.

SECTION 59: REFERENCE TO BOARD

(1) The 67[State Government may at any time, and where either prior to the commencement of a proceeding before the Conciliator or after his failure to bring about a settlement, the parties agree, shall refer the dispute to a Board and thereupon conciliation proceedings before the Board shall be deemed to have commenced from the date of such reference.

(2) On such reference being made, the Board shall give notice in the prescribed manner to the parties to the dispute to appear before it at such time and place as may be specified in this notice. A copy of such notice shall be sent to the Labour Officer.

(3) On the date specified in the notice or on such other date as may be fixed by the Board, the Board shall hold the conciliation proceeding. It shall be the duty of the Board to endeavour to bring about a settlement of the industrial dispute and the provision of sections 55, 56 and 58 shall, so far as may be, apply to the proceeding before the Board.

SECTION 60: PROCEDURE AND POWERS OF CONCILIATOR AND BOARD

(1) A Conciliator or a Board, as the case may be, shall subject to the provisions to this Act, follow in a conciliation proceeding such procedure as may be prescribed.

67. Subs by the adaption of laws order 1950. 6S. Ins, by Born. 74 of 1948.

(2) The proceedings before a Conciliator shall be held in Camera and any proceedings before a Board may be held in public or in Camera as the Board may decide.

(3) If a party to an industrial dispute or a witness or any other person giving any information or producing any document in a conciliation proceeding, makes a request in writing to the Conciliator or the Board, as the case may be, that such information or the contents of such document be treated as confidential, the Conciliator or the Board shall direct that such information or document be treated as confidential:

Provided that the Conciliator or Board may permit the information or the contents of the document to be disclosed to the other party.

(4) Save as provided in sub-section (3) a Conciliator or any member of a Board or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (3) without the consent in writing of the party making the request under the said sub-section.

(5) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

SECTION 61: REFERENCE TO INDUSTRIAL COURT BY CONCILIATOR OR BOARD

A Conciliator or a Board may refer any question of law arising before him or it in any conciliation proceeding, to the Industrial Court for decision. Any order passed by the Conciliator or the Board in such proceeding shall be in accordance with such decision.

SECTION 62: TIME LIMIT FOR STAGES OF CONCILIATION PROCEEDING

(1) The 69[State Government shall by general or special order notified in the Official Gazette fix a

time limit for the completion of each stage of the conciliation proceedings provided for under this Chapter:

Provided that the total period fixed for the completion of all stages of a conciliation proceeding shall not exceed one month from the date on which the dispute is entered by the Conciliator in the register under section 55 or is referred to a Board under section 59

Provided further that the Government may extend as the said period of one month by a further period of a fortnight at a time but not exceeding in any case two months in the aggregate.

(2) Notwithstanding anything contained in sub-section (1), the parties to any industrial dispute may in any case agree to extend the period fixed for the completion of any stage of a conciliation proceeding by any further period and such further period shall be excluded in computing the period of time limit referred to in the said sub-section. 70 that, the total period for the completion of a conciliation proceeding including the period of extension mutually agreed to by the parties shall not exceed one year:

Provided further that, the State Government may extend the said period of one year by a further period of a month at a time but not exceeding in any case two months in aggregate].

69. Subs, by the Adaptation of Laws Order, 1950. 70. Added by Born. 63 of 1953.

71[(3) Where a Conciliator or a Board refers under section 61 a question of law to the Industrial Court for its decision, the period commencing from the date of such reference to the date of communication of the decision of the Industrial Court to the Conciliator or the Board, as the case may be, shall be excluded in computing the time-limit referred to in sub-section (1)]

SECTION 63: COMPLETION OF CONCILIATION PROCEEDING

A conciliation proceeding shall be deemed to have been completed-

(i) when a memorandum of the settlement arrived at in such proceeding is signed by the parties under sub-section (1) of section 58, or

(ii) when the parties agree in writing to submit the dispute to arbitration, or

(iii) if no settlement is arrived at when the report of the Conciliator or the Board is published by the 72[State Government, or

(iv) when the time fixed for the completion of such proceeding under section 62 has expired.

73[*Explanation* -When an industrial dispute is settled in regard to some of the industrial matters included therein, the conciliation proceeding in regard to those matters only shall be deemed to have been completed within the meaning of this section.

SECTION 64: CONCILIATION PROCEEDINGS NOT TO BE COMMENCED OR CONTINUED IN CERTAIN CASES

No conciliation proceeding in respect of an industrial dispute shall

(a) be commenced if --

(i) the representative of employees directly affected by the dispute is a registered union which is a party to a submission relating to such dispute or a dispute relating to an industrial matter similar to that regarding which the dispute has arisen;

(ii) it has been referred to arbitration under the provisions of section 72 ⁷⁴[or 73];

(iii) by reason of a direction issued under Sub-section (2) of section 114 ⁷⁵[or by reason of any of the other provisions of this Act] the employers and employees concerned are in respect of the dispute bound by a registered agreement, settlement, submission or award;

(b) be continued after the date on which

(i) a submission relating to such dispute is entered into by the employer and employees concerned under section 58 of 66;

(ii) the dispute is referred to arbitration under section 72 [73 or 73A] ⁷⁷[or to a Wage Board under section 86C or 86CC]; or

(iii) the direction referred to in sub-clause (iii) of clause (a) is issued.

SECTION 65: CONCILIATION PROCEEDING DISCONTINUED DEEMED TO BE COMPLETED

A conciliation proceeding which is discontinued under clause (b) of section 64 shall be deemed to have been completed on the date referred to in the said clause, and the provisions of section 58 with regard to the submission, forwarding and publication of reports shall apply to such conciliation proceeding.

Footnotes:

71. Ins, by Born. 63 of 1953.

72. Subs. by the Adaptation of Laws Order, 1950.

73. Added by Born. 74 of 1948.

74. Subs, by Born. 63 of 1953.

75. Ins, by Born. 55 of 1949.

76. Subs. by Born. 55 of 1949

77. ins, by Mah. 22 of 1965.

CHAPTER XI-Arbitration

SECTION 66: SUBMISSION

(1) Any employer and a Representative Union or any other registered union which is a representative of employees may, by a written agreement, agree to submit any present or future industrial dispute or class of such disputes to the arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.

(2) Such submission may provide that the dispute shall be referred to the arbitration of Labour Court or the Industrial Court;

78[**Provided that** no such submission shall provide for reference to any such dispute to the arbitration of the Industrial Court where under any provision of this

Act it is required to be referred to the Labour Court for its decision.]

(3) A copy of every such submission shall be sent to the Registrar who shall register it in the register to be maintained for the purpose and shall publish it in such manner as may be prescribed.

SECTION 67: SUBMISSION WHEN REVOCABLE

Every submission shall in the absence of any provision to the contrary contained therein be irrevocable:

Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months notice in writing:

Provided further that before the expiry of the said period of six months the parties may agree to continue the submission for such further period as may be agreed upon between them.

SECTION 68: PROCEEDINGS IN ARBITRATION

The proceedings in arbitration under this Chapter shall be in accordance with the provisions of the Arbitration Act, 1940, 10 of 1940 in so far as they are applicable and the powers which are exercisable by a Civil Court under the said provisions, shall be exercisable by a Labour Court and the Industrial Court.

SECTION 69: SPECIAL CASE TO BE STATED TO INDUSTRIAL COURT

The arbitrator may refer any question of law arising before him in any proceeding under this Act to the Industrial Court for its decision. Any award made by the arbitrator shall be in accordance with such decision.

SECTION 70: AWARD BY ARBITRATOR

The arbitrator shall after hearing the parties concerned make an award which shall be signed by him

SECTION 71: DISPUTE TO BE REFERRED TO LABOUR COURT AND INDUSTRIAL COURT IF NO ARBITRATOR APPOINTED

Notwithstanding anything contained in this Chapter, if no provision has been made in any submission for the appointment of an arbitrator or where by reason of any circumstance no arbitrator is appointed, such dispute shall be referred to the arbitration or a Labour Court or the Industrial Court as the 79[State] Government may determine.

SECTION 72: DISPUTES BETWEEN EMPLOYERS AND EMPLOYEES MAY BE REFERRED BY 79[STATE GOVERNMENT TO ARBITRATION OF LABOUR COURT OR INDUSTRIAL COURT

(1) Notwithstanding anything here in a before contained the 79[State Government may, at any time on the report of the Labour Officer or on its own motion, refer any industrial dispute between employers and employees to the arbitration of a Labour Court or the Industrial Court.

75. Added h luau. 43 ul 1945.

79. Subs, by the Adaptation of La s Order. 1950.

(2) The provisions of this Chapter with such modifications as may be prescribed shall apply to such arbitration.

(3) The employers of such employees shall in the prescribed manner be made parties to such arbitration.

SECTION 73: 80[STATE GOVERNMENT MAY REFER INDUSTRIAL DISPUTE TO INDUSTRIAL COURT FOR ARBITRATION

Notwithstanding anything contained in this Act, the 80[State Government may, at any time, refer an Industrial dispute to the arbitration of the Industrial Court, if on a report made by the Labour Officer

or otherwise it satisfied that -

(1) by reason of the continuance of the dispute -

(a) a serious outbreak of disorder or a breach of the public peace is likely to occur; or

(b) serious or prolonged hardship to a large section of the community is likely to be caused; or

(c) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed; or

(2) the dispute is not likely to be settled by other means; or

(3) it is necessary in the public interest to do so.

SECTION 73AA: POWER OF STATE GOVERNMENT TO INCLUDE OTHER UNDERTAKINGS IN REFERENCES TO LABOUR OR INDUSTRIAL COURT

Where an industrial dispute concerning any undertaking in an industry or section thereof has been or is to be referred to a Labour Court or Industrial Court under section 72 or 73, and the State Government is of opinion, whether an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other undertaking, group or class of undertakings of a similar nature in that industry or any section thereof is likely to be interested in or affected by such dispute, the State Government may, at the time of making such reference or at any time thereafter, but before the submission of the award, include in that reference such undertaking, group or class of undertakings or any section thereof, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of undertakings or section thereof].

SECTION 73A: 2[REFERENCE TO ARBITRATION BY UNIONS

Notwithstanding anything contained in this Act 1[an employer on a registered union which is a representative of employees and which is also an approved union may refer any industrial dispute for arbitration to the Industrial Court:

Provided that no such dispute shall be referred to the Industrial Court,"

(i) after two months from the date of the completion of the proceedings before the Conciliator;

50. Subs. by the Adaptation of laws Order, 1950.

2. Subs. by Born. 63 of 95 .

1 Ins, by Mah. 22 of 1965.

3[(ii) where the registered union or the employer, as the case may be, has offered in writing before the Conciliator to submit the dispute to arbitration under this Act and the employer or the union, as the case may be, has not agreed to do so;]

(iii) unless the dispute is first submitted to the Conciliator and the conciliation proceedings are completed or the Conciliator certifies that the dispute is not capable of being settled by conciliation:

Provided further that no such dispute shall be referred to the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

SECTION 74: NOTICE OF AWARD TO PARTIES

(1) The arbitrator, Labour Court or Industrial Court, as the case may be, shall forward copies of the award made by him or it to the parties, the Commissioner of Labour and the Registrar.

(2) On receipt of such award, the Registrar shall enter it in the register kept for the purpose and shall publish it in such manner as may be prescribed.

SECTION 75: DATE ON WHICH AWARD SHALL COME INTO OPERATION

3[Except as provided in section 118B, the award shall] come into operation on the date specified in the award or where no such date is specified therein on the date on which it is published under section 74].

SECTION 76: COMPLETION OF ARBITRATION PROCEEDING

The arbitration proceeding shall be deemed to have completed when the award is published under section 74.

SECTION 76A: 4[PROCEDURE TO GIVE EFFECT TO AWARDS AFFECTING 5[STATE] GOVERNMENT

(1) Notwithstanding anything contained in sections 74 to 76 (both inclusive) where the award affects an industry conducted or carried on by a department of the 5[State Government, the award shall not be effective except in accordance with the procedure set out in sub-sections (2) and (3).

(2) The arbitrator, Labour Court or Industrial Court, shall, as soon as practicable on the conclusion of its proceedings, submit its award to the 5[State Government, and the 5[State Government shall, by order in writing, declare the 6[award to be binding:

Provided that where in the opinion of the 5[State Government, it would be inexpedient on public grounds to give effect to the whole or any part of the award, the 5[State Government shall, on the first available opportunity, lay the 6[award together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly by the 5[State and shall, as soon as may be, caused to be moved herein a resolution for the consideration of the 6[award and the Legislative Assembly may by its resolution confirm, modify or reject the award.

(3) On the passing of a resolution under the proviso to sub- section (2), unless the award is rejected thereby, the 5[state Government shall, by order in writing, declare award as confirmed or modified by the resolution, as the case may be, to be binding.

3 Subs. by Mah. 22 of 1965

4 Ins, by Born. 43 of 1948

5 Subs, by the Adaptation of Laws Order, 1950

6 Subs. by Born. 63 of 1953

CHAPTER XII-LABOUR COURTS

SECTION 77: TERRITORIAL JURISDICTION

The territorial jurisdiction of Labour Courts shall extend to the local areas for which they are constituted.

SECTION 78: POWERS OF LABOUR COURT

(1) A Labour Court shall have power to -

A. decide -

(a) disputes regarding -

7[(i) the propriety or legality of an order passed by an employer acting or purporting to act under the standing order;]

(ii) the application and interpretation of standing orders:

(iii) any change made by an employer or desired by an employee in respect of an industrial matter specified in Schedule III 9[except item (5) thereof]] and matters arising out of such change;

(b) industrial disputes --

(i) referred to it under section 71 or 72;

(ii) in respect of which it is appointed as the arbitrator by a submission;

(c) whether a strike, lock-out, 8[closure stoppage] or any change is illegal under this Act;

B. Try offences punishable under this Act and where the payment of compensation on conviction for an offence is provided for, determine the compensation and order its payment;

C. require any employer to--

(a) withdraw any change which is held by it to be illegal, or 9[withdraw temporarily any change the legality of which is a matter of issue in any proceeding pending final decision, or]

(b) carry out any change provided such change is a matter in issue in any proceeding before it under this Act.

10[D. require an employer, where it finds that orders of dismissal, discharge, removal, retrenchment, termination of service or suspension of an employee made by the employer,

(i) was for fault or misconduct committed by the employee which came to the notice of the employer more than six months prior to the date of such order; or

(ii) was in contravention of any of the provisions of any law, or of any standing order in force applicable to such employee, or

(iii) was otherwise improper or illegal-

(a) to reinstate the employee forthwith or by a date specified by it in this behalf and pay him wages for the period beginning on the date of such order of dismissal, discharge, removal, retrenchment, termination of service or suspension, as the case may be, and ending on the date on which the Labour Court orders his reinstatement or on the date of his reinstatement, whichever is later, or

7. Subs, by Born. 63 of 1953.

8. Ins, by Born. 74 of 1948.

9. Ins, by Born. 22 of 1965.

10. Added by *ibid*.

(b) to pay to the employee in addition to wages (being wages for the period commencing on the date of his dismissal, discharge, removal, retrenchment or termination of service and ending on the date on which the Labour Court orders such payment), such sum not exceeding four thousand rupees by way of compensation, regard being had to loss of employment and possibility of getting suitable employment thereafter.]

(2) Every offence punishable under this Act shall be tried by the Labour Court within the local limits

of whose jurisdiction it was committed.

Explanation.- A dispute falling under clause (a) of paragraph A of sub-section (1) shall be deemed to have arisen if within the period prescribed under the proviso to sub-section (4) of section 42, no agreement is arrived at in respect of an order, matter or change referred to in the said proviso.

SECTION 79: COMMENCEMENT OF PROCEEDINGS

(1) Proceedings before a Labour Court in respect of disputes falling under clause (a) of paragraph A of sub-section (1) of section 78 shall be commenced on an application made by any of the parties to the dispute, a special application under sub-section (3) of section 52 or an application by the Labour Officer 11[or a representative union] and proceedings in respect of a matter falling under clause (c) of the said paragraph A on an application made by any employer or employee directly affected or the Labour Officer 11[or a representative union.]

(2) Every application under sub-section (1) shall be made in the prescribed form and manner.

(3) An application in respect of a dispute falling under clause (a) of paragraph A of sub-section (1) of section 78 shall be made --

(a) if it is a dispute falling under sub-clause (i) or (ii) of the said clause, within three months of the arising of the dispute:

(b) if it is a dispute falling under sub-clause (iii) of the said clause within three months of the employee concerned having last approached the employer under the proviso to sub-section (4) of section 42:

12[**Provided that**, the Labour Court may, for sufficient reasons, admit any application in respect of any dispute made to it under this sub-section after the expiry of the period of three months specified thereof under sub-clause (a) or (b), as the case may be.]

(4) An application in respect of a matter falling under clause (c) of paragraph A of sub-section (1) of section 78 shall be made within three months of the commencement of the strike, 13[lock-out, closure or stoppage] or of the making of the illegal change, as the case may be:

14[Provided that the Labour Court may, for sufficient reasons, admit any application for a declaration that a change is illegal under this Act, after the expiry of three months from the date on which such change was made

11. Ins by Born. 43 of 1948.

12. Added by Mah. 47 of 1977.

13. Subs, by Mah. 74 of 1948.

14. Added by Born. 55 of 1949.

Provided further that when an application is admitted after the expiry of three months under the preceding proviso the employer who made the change shall not be liable to the penalty provided under section 106].

SECTION 80: 15[LABOUR COURT TO GIVE NOTICE TO PARTIES AFFECTED AND PERMIT APPEARANCE OF PARTIES

On receipt of an application under section 79 the Labour Court shall issue a notice to all parties affected by the dispute, in the manner provided by rules under section 85. Subject to the provisions of Chapter V, the Labour Court may permit the parties so affected to appear in the manner provided by the provisions of section 80A to 80C. The Labour Court shall then hold an inquiry.

SECTION 80A: PROCEDURE TO BE FOLLOWED IN AN APPLICATION UNDER SECTION 79 BY AN EMPLOYER WHEN EMPLOYEES AFFECTED ARE NUMEROUS

(1) Where an application is filed under section 79 by an employer or the Labour Officer for the decision of the Labour Court and the employees affected are numerous persons having the same interest, the Court may permit one or more of such employees to appear and to defend the application on behalf of all the employees so interested.

(2) In such case the Labour Court shall also direct notice of the filing of the application to be given to all such employees at the applicant's expense either by personal service or where from the number of employees or any other cause such service is not reasonably practicable, by public advertisement and by causing the notice with its translation in a regional language to be affixed by the applicant at the entrance through which the majority of the employees enter the premises for their work. The person affixing the notice and publishing the advertisement shall file an affidavit in the Court of his having done so.

SECTION 80B: WHEN AN EMPLOYEE, WHO IS NOT PERMITTED TO APPEAR MAY BE ALLOWED TO JOIN AS PARTY

Any employee, who is not permitted to appear under section 80A but on whose behalf the application is defended may apply to the Court to make him a party to such application. The Court may grant such application, if it is satisfied that the interest of the employee will be severally and materially affected to his prejudice if he is not joined as party to the application.

SECTION 80C: PROCEDURE TO BE FOLLOWED IN AN APPLICATION UNDER SECTION 79 BY EMPLOYEE WHEN EMPLOYEES AFFECTED

ARE NUMEROUS

(1) Where there are numerous employees having the same interest, one or more of such employees, or the Labour Officer, may, with the permission of the Court, file an application under section 79. Such application may be made on behalf of and for the benefit of all the employees. The Court shall, in such cases, direct the notice of the filing of the application to be given to such employees at the applicant's expense, either by personal service or where from the number of employees or any other cause, such service is not practicable, by public advertisement. The person publishing the advertisement shall file an affidavit in the Court of his having done so.

(2) An employee on whose behalf an application is filed under sub-section (i) may apply in the Court to make him a party to such application. The Court may grant such application if it is satisfied that his interest will be severally and materially affected to his prejudice if he is not joined as a party to the application.

SECTION 80D: JUDGE OF LABOUR COURT TO RECORD MINUTES OF PROCEEDINGS AVERMENT, ETC

In an inquiry under sections 80 and 80A to 80C, the Judge presiding over the Labour Court shall himself, as such inquiry proceeds, record a minute of the proceedings in his own hand, embracing the material averment made by the parties affected and the material parts of the evidence. The decision shall be signed by him and shall set forth the grounds on which it is based.]

15. Subs, by Bom. 49 of 1955.

SECTION 81: REFERENCE TO INDUSTRIAL COURT BY LABOUR COURT

A Labour Court may refer any question of law arising in any proceeding before it to the Industrial Court for decision. Any order passed by the Labour Court in such proceeding shall be in accordance with such decision.

SECTION 82: COGNIZANCE OF OFFENCES

No Labour Court shall take cognizance of any offence except on a complaint 16[of facts constituting such offence made by the person affected thereby 17[or a representative union] or on a report in writing by the Labour Officer.

SECTION 83: POWERS AND PROCEDURE OF LABOUR COURTS IN

TRIALS

In respect of offence punishable under this Act, a Labour Court shall have all the powers 18[under the Code of Criminal Procedure, 1973, (2 of 1974) of a Metropolitan Magistrate in a metropolitan area and a Judicial Magistrate of the first class elsewhere,] and in the trial of every such offence shall follow the procedure laid down in ~ XXI] of the said Code for a summary trial 19[* * *]; and the rest of the provisions of the said Code shall, so far as may be, apply to such trial.

SECTION 83A: 20[LEGAL PRACTITIONERS EXCLUDED FROM APPEARANCE IN CERTAIN PROCEEDINGS IN LABOUR COURTS

Except in a proceeding in connection with an offence under this Act, a legal Practitioner shall not be entitled to appear before a Labour Court on behalf of any party in any other proceeding under this Act, save with the permission of such Court].

SECTION 83B: POWER OF LABOUR COURT TO AWARD COSTS 21[AND EXECUTION OF ORDER AS TO COSTS.]

22[(1) The Labour Court shall have power to direct by whom the whole or any part of costs in any proceeding before it shall be paid:

Provided that, no such costs shall be directed to be paid for the services of any legal adviser engaged by any party.]

22[(2) The provisions of section 93 shall also apply to the execution of any order

as to costs made by the Industrial Court, as they apply to any such order made by the Industrial Court, with the substitution of the reference to the Labour Court for the reference therein to the Industrial Court.]

SECTION 84: APPEALS

(1) Notwithstanding anything contained in section 83 an appeal shall lie to the Industrial Court --

(a) against a decision of a Labour Court in respect of a matter falling under clause (a) or (c) of paragraph A of sub-section (1) of Section 78 except to the extent to which it determines whether a strike 23[lock-out closure or stoppage] was illegal or not, or a decision of such Court under paragraph C of sub-section (1) of the said section;

(b) against a conviction by a Labour Court by the person convicted;

(c) against an acquittal by a Labour Court in its special jurisdiction, by the 24[State Government;

Footnotes:

16 Subs. by Born. 55 of 1949.

17 Ins, by Mah. 22 of 1965.

18 Subs, by Mah. 47 of 1977.

19 Deleted by ibid.

20 Ins, by Born. 55 of 1949.

21 Added by Mah. 47 of 1977.

22 Renumbered by ibid.

23 Subs, by Bom.74 of 1948.

24 Subs. by the Adaptation of Laws Order, 1950.

(d) for enhancement of a sentence awarded by a Labour Court in its special jurisdiction, by the
27[State Government;

(2) Every appeal shall be made within thirty days from the date of the decision, conviction, acquittal
or sentence, as the case may be:

Provided that the Industrial Court may for sufficient reasons allow an appeal after the expiry of the
said period.

SECTION 85: INDUSTRIAL COURT TO EXERCISE SUPERINTENDENCE OVER LABOUR COURTS

The Industrial Court shall have superintendence over all Labour Courts and may -

(a) call for returns;

(h) make and issue general rules and prescribe forms for regulating the practice and procedure of
such Courts in matters not expressly provided for by this Act and, in particular, for securing the
expeditious disposal of cases;

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such
Courts;

(d) settle a table of fees payable for process issued by a Labour Court or the Industrial Court.

SECTION 85A: ²⁵[POWER OF INDUSTRIAL COURT TO TRANSFER
PROCEEDINGS.- The Industrial Court may, by order in writing and for reasons to be stated

therein, withdraw any proceeding under this Act pending before a Labour Court and transfer the same to another Labour Court for the disposal of the proceeding; and the Labour Court to which the proceeding is so transferred may dispose of the proceeding but subject to any special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred.]

SECTION 86: DECISION, ETC., OF LABOUR COURT NOT TO BE CALLED IN QUESTION

Except as otherwise provided by this Act, no decision, award or order of a Labour Court shall be called in question in any proceeding in any Civil or Criminal Court.

CHAPTER XII-A WAGE BOARDS

SECTION 86A: WAGE BOARDS

The 27[State Government may, by notification in the Official Gazette, constitute for one or more industries a Wage Board 28[for the State].

SECTION 86B: CONSTITUTION OF WAGE BOARD

The Wage Board shall consist of an equal number of persons nominated by the 27[State Government to represent employers and employees and such number of independent persons as the 27[State Government nominates. The Chairman shall be appointed by the 27[State Government.

Explanation.-For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the industrial matter which may be referred to it under section 86C 29[or 86CC] and the industry directly affected by the industrial matter.

SECTION 86C: REFERENCE TO WAGE BOARDS

(1) Notwithstanding anything contained in any other provision of this Act, the 27[State Government may, by an order notified] in the Official Gazette, refer to a Wage Board for decision any industrial matter or industrial dispute regarding items numbered, 1,2,4,9 and 10 in Schedule II, and such other industrial matters or disputes as may be prescribed.

(2) The order of reference under sub-section (1) shall specify which employers and employees (including representative of employees if any, and association of employers, if any) shall be parties to the proceedings before the Wage Board.

25. Ins, by Mah. 22 of 1965.

26. Ins, by Born. 43 of 1948.

27. Subs, by the Adaptation of Laws Order, 1950.

28. Subs, by Mah. 22 of 1965.

29. Ins, by Born. 63 of 1953.

SECTION 86CC: 30[REFERENCE TO WAGE BOARD BY CERTAIN REGISTERED UNIONS

Notwithstanding anything contained in any other provision of this Act, 31[an employer or] a registered union which is a representative of employees and which is also an approved union may refer any industrial dispute of the nature mentioned in sub section (1) of section 86C other than a dispute in respect of bonus, to a Wage Board for decision:

Provided that no such dispute shall be referred to the Wage Board by the union,

(i) after two months from the date of the completion of the proceedings before the Conciliator;

32[(ii) where the registered union or the employer, as the case may be, has offered in writing before the Conciliator to submit the dispute to arbitration under this Act and the employer or the Union, as the case may be, has not agreed to do so;]

(iii) unless the dispute is first submitted to the Conciliator and the conciliation proceedings are completed or the Conciliator certifies that the dispute is not capable of being settled by conciliation].

SECTION 86D: PROCEEDINGS NOT TO BE COMMENCED OR CONTINUED BEFORE CONCILIATOR, BOARD, ETC

Notwithstanding anything contained in any other provision of this Act, where an industrial matter or industrial dispute is referred for decision to a Wage Board under section 86C, 30 86CC no proceedings regarding the same shall be commenced before a Conciliator, Board, Labour Court or the Industrial Court or a Court of Enquiry; and any such proceedings already commenced shall be forthwith stayed on the making of the reference.

SECTION 86E: PROCEDURE BEFORE WAGE BOARDS

A Wage Board shall, in respect of an industrial matter or industrial dispute referred to it for decision, subject to any rules of procedure which may be prescribed, follow the same procedure as the industrial Court in respect of arbitration proceedings before it.

In particular the rules of procedure which may be prescribed in this behalf may provide for the formation of committees for local areas from amongst members of the Wage Board with co-option of such other persons from the local areas as the Wage Board would for the purpose of any reference think fit to appoint to the committees and the exercise by each such committee of the jurisdiction and powers vested in the Wage Board in respect of such Industrial matters or industrial disputes as are referred by the Wage Board to the Committee.

SECTION 86EE: ³³[COMING INTO OPERATION OF DECISION OF WAGE BOARD

Save as provided in section 86-F, a decision of the Wage Board shall come into operation on the date specified in the decision and where no such date is specified therein on the date on which it is published in the prescribed manner.]

30. Ins, by Born. 63 of 1953.

31. Ins, by Mah. 22 of 1965.

32. Subs, by *ibid*.

33. Ins, by Born. 74 of 1948.

SECTION 86F: PROCEDURE TO GIVE EFFECT TO DECISION OF WAGE BOARD AFFECTING ³⁴[STATE GOVERNMENT

(1) Where the decision of a Wage Board affects an industry conducted or carried on by a department of the ~ Government, the decision shall not .be effective except in accordance with the procedure set out in sub-sections (2) and (3).

(2) The Wage Board shall, as soon as practicable on the conclusion of its proceedings, submit its decision to the 4 Government, and the ³⁴[State Government shall, by order in writing declare the decision to be binding;

Provided that where in the opinion of the ³⁴[State Government it would be inexpedient on public grounds to give effect to the whole or any part of the decision the ³⁴[State Government shall on the first available opportunity lay the decision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the ³⁴[State and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision; and the Legislative Assembly may by its resolution confirm, modify or reject the decision.

(3) On the passing of a resolution under the proviso to sub- section (2), unless the decision is rejected thereby, the ³⁴[State Government shall, by order in writing, declare the decision as confirmed or modified by the resolution, as the case may be, to be binding.

35[(35) A decision declared to be binding under sub-section (2) or (3) shall come into operation on such date as may be specified in the order of declaration made by the 34[State Government]

SECTION 86G: APPEALS

(1) An appeal shall lie to the Industrial Court against an order or decision of a Wage Board (including reviewed order or decision), save in cases where the order is made or decision is given by the Board unanimously and in cases referred to in section 86F.

(2) Such appeal shall be made within six weeks from the date of the order of decision.

SECTION 86H: PARTIES ON WHOM ORDER OR DECISION OF WAGE BOARD IS BINDING

Subject to the provisions of section 86F and 86G, an order or decision of a Wage Board shall be binding on --

37[(a) all parties to the industrial dispute;]

(b) all parties who were summoned to appear as parties to the proceeding whether they appeared or not;

(c) all the employers and employees in the concern or occupation or industry in the local area according as the order or reference under sub-section (1) of section 86C directs irrespective of whether they were such employers or employees at the time of the making or giving of such order or decision, or whether they became such afterwards.

SECTION 86I: REVIEW OF ORDER OR DECISION BY WAGE BOARD

(1) An employer or an employee or an association or a group of employers or a registered union or body of employees may apply to a Wage Board for review of an order or decision of the Wage Board and the Wage Board may for any sufficient reason and upon hearing all the parties review the order or decision:

34 Subs. by the Adaptation of Laws Order, 1950.

35 Added by Born. 74 of 1948.

36 Ins, by Mah. 36 of 1966.

37 Subs, by Mah. 22 of 1965.

Provided that no such application shall lie until a period of one year has elapsed from the date of the making or giving of the order or decision or the last review thereof, as the case may be:

Provided further that no such application by an employer or an association or a group of employers shall lie unless the employer, association or group, as the case may be, employs not less than fifteen per cent of the employees whom the order or decision hinds:

Provided also that no such application by an employee or a body of employees, shall lie unless the employee or body of employees represents not less than fifteen per cent of the employees whom the order or decision binds.

(2) Where the 38[State Government makes an application in this behalf, the Wage Board may at any time review its order or decision for any sufficient reason and upon hearing all the parties.

SECTION 86J: SUPERINTENDENCE BY INDUSTRIAL COURT

The Industrial Court shall have superintendence over all Wage Boards and may-

- (a) call for returns from such Boards;
- (b) make and issue general rules, and lay down forms for regulating the practice and procedure of such Boards in matters not expressly provided for by or under this Act, and in particular, for securing expeditious disposal of cases;
- (c) lay down the forms in which books, entries and accounts shall be kept by officers of Wage Boards;
- (d) settle fees for processes issued by Wage Boards.

SECTION 86K: ORDER OR DECISION OF WAGE BOARDS NOT TO BE CALLED IN QUESTION

(1) Save as otherwise provided by this Act, no order or decision of a Wage Board shall be called in question in any proceeding in any civil or criminal court.

(2) The appellate order or decision of the Industrial Court under section 86G shall have the same force as the original order or decision of the Wage Board which it replaces except that there shall be no further appeal against it.

SECTION 86KK: ³⁹[TRANSFER OF CERTAIN DISPUTES TO WAGE BOARDS

The 38[State Government may, on the recommendation of the Industrial Court, by an order notified in the Official Gazette, direct that any industrial matter, or industrial dispute of the nature mentioned in section 86C which has been referred to the Industrial Court under 40[sub-section 6] of section 58

or sections 66, 72, 73 or 73A and is pending before it at any time shall be transferred to a Wage Board for disposal or for further disposal from the stage reached before the Industrial Court and thereupon all the provisions of this Act shall apply to that dispute as if it were referred to the Wage Board for decision under section 86C].

CHAPTER XII B-38[STATE WAGE BOARD

SECTION 86L: 38[STATE WAGE BOARD

(1) The 38[State Government may by notification in the Official Gazette, constitute for all the industries together to which this Act applies a 38[State Wage Board 41[for the State.]

38 Subs, by the Adaptation of Laws Order, 1950.

39 Ins, by Bom. 74 of 1948.

40 Subs. by Bom. 55 of 1949.

41 Subs, by Mah. 22 of 1965

(2) In relation to the 42[State Wage Board the provisions of sections 33, 46, 47, 86B to 86K (both inclusive), 87, 90, 97, 98, 115, 118, 119, 119A and 123 shall be read as if the reference therein to a Wage Board were reference to the 42[State Wage Board.

CHAPTER XIII-COURT OF INDUSTRIAL ARBITRATION

SECTION 87: DUTIES OF INDUSTRIAL COURT

It shall be the duty of the Industrial Court-

(a) (i) to decide appeals under section 20 43[24A or 44] from orders passed by the Registrar;

(ii) to decide appeals from the decision of the Commissioner of Labour under section 36 or 39 and revision applications under section 37 regarding standing orders;

44[(iii) decide disputes regarding any change desired by any employee or representative union in respect of any industrial matter specified in item

(5) or Schedule III;

(iii) to decide disputes referred to it under sub-section (6) of section 58;

(iv) to decide all matters which may be referred to it by a Conciliator or a Board under section 61 or by an arbitrator under section 69;

(v) to decide industrial disputes referred to it in accordance with submissions registered under section 66 which provide for such reference to the Industrial Court;

(vi) to decide industrial disputes referred to it under sections 71, 72, 45[73 or 73A];

(vii) to decide matters referred to it under section 90; (viii) to decide questions relating to the interpretation of this Act or rules made there under and standing orders referred to it under section 91;

(ix) to decide references made to it under section 99;

46[(ixA) to modify an award under section 116A]

(x) to decide such other matters as may be referred to it under this Act or the rules made there under 47[or under any law for the time being in force];

(b) to decide appeals made under section 84 from a decision of a Labour Court;

48[(c) to decide appeals made under section 86G from an order or decision of a Wage Board]

SECTION 88: POWERS OF INDUSTRIAL COURT

(1) The Industrial Court in appeal may confirm, modify, add to or rescind any decision or order appealed against and may pass such orders therein as it may deem fit.

42 Subs, by the Adaptation of Laws Order, 1950.

43 Subs. by Mah. 22 of 1965.

44 Ins, by *ibid*.

45 Subs. by Born. 74 of 1948.

46 Ins, by *ibid*.

47 Added by Mah. 3 of 1968.

48 Ins, by Born. 43 of 1948.

(2) In respect of offences punishable under this Act, the Industrial Court shall have all the powers of the High Court of Judicature at Bombay under 49[the Code of Criminal Procedure, 1973].

(3) A copy of the orders passed by the Industrial Court shall be sent to the Labour Court.

SECTION 89: CANCELLATION OF REGISTRATION OF UNION

If in any proceeding the Industrial Court finds that any union was registered by reason of a mistake misrepresentation or fraud, or that a registered union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union shall be cancelled.

SECTION 90: REFERENCE ON POINT OF LAW

50[(1)A wage Board may refer to the Industrial Court any point of law arising in any proceedings before it under this Act. Any order or decision made or given by the Wage Board in such proceedings shall be in accordance with the decision of the Industrial Court.]

51[(2) A civil or criminal court may refer any matter or any issue in any suit, criminal prosecution or other legal proceeding before it relating to an industrial dispute to the Industrial Court for its decision. Any order passed by such Court in such Suit, prosecution or legal proceeding shall be in accordance with such decision.

51[(3) The 52[State Government may refer to the Industrial Court any point of law arising in any proceedings held under this Act. The Industrial Court shall not decide any such reference save in open Court and with the concurrence of a majority of the members of the Court present at the hearing of the reference.

SECTION 91: REFERENCE REGARDING INTERPRETATION OF ACT AND RULES

The Commissioner of Labour may refer any question relating to the interpretation of this Act or the rules made under this Act to the Industrial Court for its decision.

SECTION 92: PROCEDURE BEFORE INDUSTRIAL COURT

(1) The Industrial Court shall make regulations consistent with the provisions of this Act and rules made there under regulating its procedure.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the formation of Benches consisting of one or more of its members and the exercise by each such Bench of the jurisdiction and powers vested in it:

Provided that no Bench shall consist only of a member who has not been and at the time of his appointment was not eligible for appointment as a Judge of a High Court.

(3) Every regulation made under sub-section (1) or (2) shall be published in the Official Gazette.

(4) Every proceeding before the Industrial Court shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 (45 of 1860) of the Indian Penal Code.

(5) The Industrial Court shall have power to direct by whom the whole or any part of the costs of any proceeding before it shall be paid:

Provided that no such costs shall be directed to be paid for the services of any legal adviser engaged by any party.

49. Subs, by Mah. 47 of 1977.

50. Ins, by Boin. 43 of 1948.

51. Re-numbered by *ibid*.

52. Subs, by the Adaptation of Laws Order, 1950.

SECTION 93: EXECUTION OF ORDER AS TO COSTS

An order made by the Industrial Court regarding the costs of a proceeding may be produced before the Court of the Civil Judge within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business or where such place is within the local limit of the ordinary civil jurisdiction of the High Court before the Court of Small Causes of Bombay, and such Court shall execute such order in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

SECTION 94: PARTIES ON WHOM ORDERS OF INDUSTRIAL COURT BINDING

An order, decision or award of the Industrial Court shall be binding on

53[(a)all parties to the industrial dispute;]

(b) all parties who were summoned to appear as parties to the dispute whether they appeared or not unless the Industrial Court is of opinion that they were improperly made parties;

(c) in the case of an employer who is a party to the proceeding before such Court in respect of the undertaking to which the dispute relates, his successors, heirs or assigns in respect of the undertaking to which the dispute relates; and

(d) in the case of a registered union which is a party to the proceeding before such Court, all persons represented by the union at the date of the award, as well as thereafter.

SECTION 95: 5[ORDER OF INDUSTRIAL COURT TO BE FINAL EXCEPT ON REVIEW

55[(1) An employer or an association or a group of employers or 56[a representative of employees]

may at any time apply to the Industrial Court for review of a decision or award of the Industrial Court and the Industrial Court may, for any sufficient reason and upon hearing the parties, review the decision or award.]

57[(2) No order, decision or award of the Industrial Court shall be called in question in any civil or criminal Court.

SECTION 95A: 58[LAW DECLARED BY INDUSTRIAL COURT TO BE BINDING

The determination of any question of law in any order, decision, award or declaration passed or made, by the Full Bench of the Industrial Court, constituted under the regulations made under section 92 shall be recognised as binding and shall be followed in all proceedings under this Act.)

SECTION 96: OFFICER TO APPEAR IN PROCEEDING BEFORE INDUSTRIAL COURT

The 59[State Government may direct any officer to appear in any proceeding before the Industrial Court by giving notice to such Court and on such notice being given such officer shall be entitled to appear in such proceeding.

53. Subs, by Mah. 22 of 1965.

54. Subs, by Born. 43 of 1948.

55. Ins, by Born. 43 of 1948.

56. Subs, by Mah. 22 of 1965.

57. Re-numbered by Born. 47 of 1958.

58. Ins, by Born, 74 of 1948.

59. Subs, by the Adaptation of Laws Order, 1950.

CHAPTER XIV-ILLEGAL STRIKES AND LOCK-OUTS

SECTION 97: ILLEGAL STRIKES

(1) A strike shall be illegal if it is commenced or continued-

(a) in cases where it relates to an industrial matter specified in Schedule III or regulated by any

standing order for the time being in force;

(b) without giving notice in accordance with the provisions of section 42;

(c) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(d) in case where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area;

(e) in cases where conciliation proceeding in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings 60[and during the period of ten days thereafter];

(f) in cases where special intimation has been sent under sub-section (2) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given;

(g) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked;

(h) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (6) of section 58 or under section 71, or of the Industrial Court under section 72 61[73 or 73]} before the date on which the arbitration proceedings are completed, or the date on which the award of the Labour or Industrial Court, as the case may be, comes into operation, whichever is later

62[**Provided that**, nothing in this clause shall apply to any strike, where the Union has offered in writing to submit the industrial dispute to arbitration under sub-section (6) of section 58. and

(a) the employer does not accept the offer, or

(b) the employer accepts the offer but disagreeing on the choice of the arbitrator, does not agree to submit the dispute to arbitration without naming an arbitrator, and thereafter, the dispute has been referred to arbitration of the Industrial Court under section 73A.

(i) In contravention of the terms of a registered agreement, or a settlement or 63[effective award];

64[(j)where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation;

(k) in contravention of the terms of an effective decision of a Wage Board.]

(2) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceeding.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if fourteen clear days notice of a strike not falling under clauses (a), (g), (h) or (i) of sub-section (1) was given to the employer and the Labour Officer, and the strike was not commenced either before the expiry of the period of notice or

after six weeks from the date of expiry, the employees who resume work within forty-eight hours of a Labour Court or the Industrial Court declaring such strike to be illegal shall incur no penalty under this Act in respect of such strike:

Provided that nothing in sub-section (3) shall apply to any strike which has within the period of notice been declared under section 99 to be illegal.

60. Added by Born. 63 of 1953.

61. Subs, by *ibid*.

62. Added by Mah. 22 of 1965.

63. Subs, by Born. 43 of 1948.

64. 1n by *ibid*.

SECTION 97A: STOPPAGE OF WORK BY EMPLOYEES IN CERTAIN CIRCUMSTANCES ILLEGAL

A stoppage shall be illegal, if it is commenced or continued,-

(a) with the object of compelling the 66[Central or 67[State Government] or any public servant to take or abstain from taking any particular course of action in regard to an industrial matter, where the 66[Central or 67[State Government] is not an employer in the industry concerned, or

(b) if such stoppage is in support of, or in sympathy with, a strike which is illegal under this Act or the Industrial Disputes Act, 1947, 14 of 1947 or any other law for the time being in force, whether or not in the same industry, occupation or undertaking.]

SECTION 98: ILLEGAL LOCK-OUTS

(1) A lock-out shall be illegal if it is commenced or continued-

(a) in cases where it relates to any industrial matter specified in Schedule III or regulated by any standing order for the time being in force;

(b) without giving notice in accordance with the provisions of section 42;

(c) in cases where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area;

(d) in cases where conciliation proceedings in respect of an industrial dispute to which a lock-out relates have commenced, before the completion of such proceedings 68[and during the period of ten

days thereafter];

(e) in cases where a special intimation has been sent under sub-section (2) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given:

(f) in cases where a submission relating to such dispute or such type of dispute is registered under section 66, before such submission is lawfully revoked

(g) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (6) of section 58 or under section 71, or of the Industrial Court under section 71 ⁶⁹[73 or 73 A], before the date on which the arbitration proceeding is completed or the date on which the award of the Industrial Court comes into operation, whichever is later:

65. Ins, by Born. 74 of 1945.

66. Subs, by Born. 55 of 1949.

67. Subs, by Adaptation of laws Order, 1950.

65. Added by Born. 63 of 1953.

70[**Provided that**, nothing in this clause shall apply to any lock-out when the employer has offered in writing to submit the industrial dispute to arbitration under sub-section (b) of section 58, and

(a) the Union does not accept the offer; or

(b) the Union accepts the offer, but disagreeing on the choice of the arbitrator, does not agree to submit the dispute to arbitration without naming an arbitrator, and thereafter, the dispute has been referred to arbitration of the Industrial Court under section 73A;]

(h) in contravention of the terms of a registered agreement, or a settlement or 71[effective award];

72[(i) where an industrial matter or industrial dispute is referred to a Wage Board for decision before, the date on which the decision comes into operation;

(j) in contravention of the terms of an-effective decision of a Wage Board.]

(2) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months from the completion of such proceeding.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if fourteen clear days notice of a lock-out not falling under clauses (a), (g), (h) or (i) of sub-section (1) was given to the employees and the Labour Officer, and the lock-out was not commence either before the expiry of the period of notice of after six weeks from the date of its expiry and the employer discontinues the lock-out within forty-eight hours of a Labour Court or the Industrial Court declaring such lock-out to be illegal, the employer shall incur no penalty under this Act in respect of such lock-out:

Provided that nothing in this sub-section shall apply to any lock-out which has within the period of notice been declared under section 99 to be illegal.

SECTION 98A: 73[CLOSURE OF WORK BY EMPLOYER IN CERTAIN CIRCUMSTANCES ILLEGAL

A closure shall be illegal, if it is commenced or continued with the object of compelling the 74[central or 75[State Government] or any public servant to take or abstain from taking any particular course of action in regard to any industrial matter.]

69. Subs, by Born. 63 of 1953.

70. Added by Mah. 22 of 1965.

71. Subs, by Born. 43 of 1948.

72. Ins, by *ibid*.

73. los. by Born. 74 of 1958.

74. Subs, by Born. 55 of 1949.

75. Subs, by Adaptation of Laws Order, 1950.

SECTION 99: REFERENCE TO INDUSTRIAL COURT FOR DECLARATION WHETHER STRIKE,76[LOCK-OUT, CLOSURE OR STOPPAGE] IS ILLEGAL

(1) The 77[State Government may make a reference to the Industrial Court for a declaration whether any proposed 76[Strike lock-out, closure or stoppage will be illegal.]

(2) No declaration shall be made under this section save in open Court.

78[(3) The declaration made under sub-section (1) shall be recognised as binding and shall be followed in all proceedings under this Act.]

CHAPTER XV-COURT OF ENQUIRY

SECTION 100: COURT OF ENQUIRY; CONSTITUTION, DUTIES AND POWERS OF

(1) The 77[State Government may constitute one or more Courts of Enquiry consisting of such

number of persons as the 77[State Government may think fit.

(2) A Court of Enquiry shall inquire into such industrial matters, as may be referred to it by the 77[State Government, including any matter pertaining to conditions of work or relations between employers and employees in any industry, and aspect of any industrial dispute.

(3) Every proceeding before a Court of Enquiry shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code.

79[(4) A Court of Enquiry may refer to the Industrial Court any point of law arising in any proceeding before it under this Act. Any finding of the Court of Enquiry in such proceedings shall be in accordance with the decision of the Industrial Court.]

CHAPTER XVI -PENALTIES

SECTION 101: EMPLOYER NOT TO DISMISS, REDUCE OR PUNISH AN EMPLOYEE

(1) No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstances that the employee,

(a) is an officer or member of a registered union or a union which has applied for being registered under this Act; or

(b) is entitled to the benefit of a registered agreement or a settlement, submission or award; or

(c) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in 80[a proceeding under this Act or any other law for the time being in force] 1[or takes part in any capacity in, or in connection with] a proceeding under this Act; or

(d) is an officer or member of an organisation the object of which is to secure better industrial conditions; or

(e) is an officer or member of an organisation which is not declared unlawful; or

(f) is representative of employees; or

76. Subs, by Born. 74 of 1948.

77. Subs, by Adaptation of Laws Order, 1950.

78. Added by Bum. 74 of 1948.

79. Added by Mah. 22 of 1965.

80. Ins, by Born. 63 of 1953.

l. Ins, by Born, 74 of 1948.

(g) has gone on 2[or joined or instigated] a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provisions of this Act.

(2) No employer shall prevent any employee from returning to work after a strike, arising out of an industrial dispute 3[***]which has not been held by a Labour Court or the Industrial Court to be illegal unless,

(i) the employer has offered to refer the issues on which the employee has struck work to arbitration under this Act, and the employee has refused arbitration; or

(ii) the employee not having refused arbitration, has failed to offer to resume work within one month of a declaration by the 4[State Government that the strike has end

5[(2A) No employer shall dismiss, discharge or reduce any protected employee save with the express permission in writing of the Labour Court.

Explanation.- For the purposes of this sub-section, a "protected employee" in relation to any industry means any employee who being an office-bearer of a union connected with the industry is recognised as such in accordance with the rules made under this Act.

(2-B) In every industry in any local area, the number of officers of any union to be recognised as "protected employee for the purposes of sub-section (2A) shall be one per cent of the total number of employees employed therein, subject to a minimum number of five protected employees and a maximum number of one hundred protected employees; and for the aforesaid purpose, the State Government may make rules providing for the manner in which the employees may be chosen and recognised as protected employees.]

(3) Whoever contravenes the provisions of sub-section (1) 2[(2) or (2A)] shall, on conviction, be punishable with fine which may extend to Rs.5,000.

(4) The Court trying an offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

(5) In any prosecution under this section the burden of proving that the dismissal, discharge, reduction or punishment of an employee by an employer was not in contravention of the provisions of this section shall lie on the employer.

SECTION 102: PENALTY FOR DECLARING ILLEGAL LOCK-OUT 6[OR ILLEGAL CLOSURE].- Any employer who has commenced a lock-out 6[or a closure] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine which may extend to Rs.2,500 and, in the case of the Lock-out 6[or the closure, as the case may be,] being continued after the lapse of forty-eight hours after it has been held or declared to be illegal, with an additional fine which may extend to Rs.5,000 for every day during which such lock-out, 6[or closure] continues after such conviction.

2. Subs by N-ah. 22 of 1965.
3. Deleted by Bom. 63 of 1953.
4. Subs. b the Adaptation of Laws Order, 1950.
5. Ins. by Mah. 22 of 1965.
6. Ins, by Bom. 74 of 1948.

SECTION 103: PENALTY FOR DECLARING OR COMMENCING ILLEGAL STRIKE 6[OR ILLEGAL STOP PAGE]

Subject to the provisions of sub-section (3) of section 97, any employee who has gone on strike 7[or stoppage] or who joins a strike 7[or a stoppage] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine, which may extend to Rs.10 and in the case of his continuing on strike 7[or on stoppage, as the case may be,] after the lapse of forty-eight hours after it is held or declared to be illegal, with an additional fine which may extend to Rs.1 per day for every day during which 8[such strike or stoppage continues after such conviction] subject to a maximum of Rs.50.

SECTION 104: PENALTY FOR INVESTIGATING, ETC., ILLEGAL STRIKES, 8[LOCK-OUTS, CLOSURES AND STOPPAGES]

Any person who instigates or incites others to take part in, or otherwise acts in furtherance of a lock-out 7[or a closure] for which an employer is punishable under section 102 or a strike 7[or a stoppage] for which any employee is punishable under section 103, shall on conviction be punishable with imprisonment of either description for a term which may extend to three months, or with fine or with both:

provided that no person shall be punished under this section where the Court trying the offence is of opinion that in the circumstances of the case a reasonable doubt existed at the time of the commission of the offence about the legality of the 8[strike, lock-out, closure or stoppage], as the case may be.

Explanation I.- For the purpose of this section, a person who contributes, collects or solicits funds for the purposes of any such 8[strike lock-out, closure or stoppage] shall be deemed to act in furtherance thereof.

Explanation II.- A person shall be deemed to have committed an offence under this section if before an illegal 8[strike lock-out, closure Or stoppage] has commenced, he has instigated or incited others

to take part in, or otherwise acted in furtherance of such 8[strike lock out closure or stoppage].

SECTION 105: PENALTY FOR DISCLOSING CONFIDENTIAL INFORMATION

If a Conciliator, a member of a Board or a Labour Officer or any person present at or concerned in any conciliation proceeding wilfully discloses any information or the contents of any document in contravention of the provisions of this Act, he shall, on conviction on a complain made by the party who gave the information or produced the document in such proceeding be punishable, with fine which may extend to Rs. 1,000.

SECTION 106: PENALTY FOR ILLEGAL CHANGE

(1) Any employer 9[who makes a change which is held or declared by a Labour Court or Industrial Court to be illegal,] shall, on conviction, be punishable with fine which may extend 10 Rs.5,000.

(2) Any employer who contravenes the provisions of section 47 shall, on conviction, be punishable with imprisonment which may extend to three months, or for every day on which-the contravention continues with fine which may extend to Rs.5,000, or with both.

(3) The Court convicting any person under sub"section (1) or (2) may direct such person to pay such compensation as it may determine to any employee directly and adversely affected-by the change in issue.

SECTION 106A: PENALTY FOR FAILURE TO APPOINT MEMBER ON JOINT COMMITTEE

Any employer who fails to appoint members of a Joint Committee to be constituted on an application made by the union within the period specified in the order made under Sub-section (1) of section 49 shall, on conviction, be punishable with fine which may extend to fifty rupees and in the case of a continuing failure with an additional line which may extend to fifty rupees for every day during which such failure continues.]

7.Ins by Bom 74 of 1948

8 Subs by bom 7 of 1948

9.Subs by mah 22 of 1965

10.Ins by Bom 43 of 1948

SECTION 107: PENALTY FOR CONTRAVENTION OF A STANDING ORDER

Any employer who Acts in contravention of 11[a model standing order applicable under section 35 12[or section 40A or a standing order settled under Chapter VII shall, on conviction, be punishable with Fine which may extend to Rs. 500 and in the case of a continuing contravention of such standing order, with an additional fine which extend to Rs 125 per day for every day during which such contravention continues.

SECTION 108: PENALTY FOR OBSTRUCTING PERSON FROM CARRYING OUT DUTIES

Any person who wilfully refuses entry to a Labour Officer or such officer of an approved union as is authorised under section 25 to any place which he is entitled to enter, or fails to produce any document which he is required to produce, or fails to comply with any requisition or order issued to him by or under the provisions of this Act or the rules made thereunder shall, on conviction, he punishable with fine which may extend to Rs.500.

SECTION 109: PENALTIES FOR OFFENCES NOT PROVIDED FOR ELSEWHERE

Whoever contravenes any of the provisions of this Act or of any rules made thereunder shall on conviction, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to Rs. 100 and, in the event of such person having been previously convicted of' all offence under this Act or any rule made thereunder with fine which may extend to Rs.200.

SECTION 110: RECOVERY OF FINES AND COMPENSATION

The amount of any fine imposed and any compensation directed by any Court to be paid under this Act shall be recoverable as arrears of land revenue.

CHAPTER XVII-RECORD OF INDUSTRIAL CONDITIONS

SECTION 111: RECORD OF INDUSTRIAL MATTERS, ETC

The 13[State Government may in respect of any industry. -

- (a) maintain in the prescribed manner a record of industrial matters covered by Schedules;
- (b) require any employer or employers generally to maintain and submit copies of a record in such

form as may be prescribed of

(i) data relating to plant, premises and manufacture, (ii) other industrial transactions and dealings, which in the opinion of the 13[State Government are likely to affect the matters specified in clause (a).

SECTION 112: INQUIRY FOR VERIFICATION OF RECORDS

(1) For the purpose of verifying the accuracy of any records maintained by an employer under the provisions of section 111 an officer authorised by the 13[State Government may, subject to the prescribed conditions hold an inquiry and may require any person to, and such person thereupon shall, produce any relevant record or document in his possession and may after reasonable notice, at any reasonable time enter any premises wherein he believes such record or document to be, and may ask any question necessary for verifying such records:

11. Ins, by Mah. 22 of 1965.

12. Ins, by Mah. 47 of 1977.

13. Subs. by the Adaptation of Laws Order, 1950.

Provided that where such premises are not the usual business premises of a person, such officer shall not without the previous permission of the 1[State Government enter them under this subsection.

(2) Any proceeding held by him for the purpose of obtaining information for such record shall be deemed to be a judicial proceeding within the meaning of section 192 of the Indian Penal Code.

CHAPTER XVIII-MISCELLANEOUS

SECTION 113: MODIFICATIONS IN SCHEDULES

The 1[State Government may, by notification in the Official Gazette at any time, make any additions to or alterations in the industrial matters specified in Schedule 1, 11 or 111 or may delete therefrom any such matter:

Provided that before making any such addition, alteration or deletion a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby and the 1[State] Government shall consider any objection or suggestion that may be received by it from any person with respect thereto.

SECTION 113A: ²[DISMISSAL OF CERTAIN APPLICATIONS FOR WANT TO PROSECUTION

The Registrar may, after giving fifteen days notice, dismiss any application made under sections 13, 16, 17 or 23, if he is satisfied that the applicant union has failed to pursue or prosecute the application, without any sufficient cause.]

SECTION 114: AGREEMENT ETC., ON WHOM BINDING

(1) A registered agreement, or a settlement, submission or award shall be binding upon all persons who are parties there to:

Provided that-

(a) in the case of an employer, who is a party to such agreement, settlement, submission or award, his successors in interest, heirs or assigns in respect of the undertaking as regards which the agreement, settlement, submission or award is made, and

(b) in the case of a registered union which is a par¹ to such agreement, settlement, submission or award, ³[all employees in the industry in the local area whose representative, the said union is]

Shall be bound by such agreement, settlement, submission or award.

(2) In cases in which a Representative Union is a party to registered agreement or a settlement, submission or award, the ¹[State] Government may, after giving the parties affected an opportunity of being heard, by notification in the Official Gazelle, direct that such agreement, settlement, submission on award shall be binding upon such other employers and employees in such industry or occupation in that local area as may be specified in the notification:

Provided that before giving a direction under this section the ¹[State Government may, in such cases as it deems fit, make reference to the Industrial Court for its opinion.

1. Subs, by the Adaption of Laws Order, 1950.

2 Ins, by Bom. 03 of 1953.

3 Subs, by Born. 49 of 1955.

(3) A registered agreement entered into the representatives of the majority of the employees affected or deemed to be affected under section 43 by a change shall bind all the employees so affected deemed to he affected.

SECTION 115: ORDER OR DECISION OF 1[WAGE BOARD OR LABOUR COURT] ON WHOM BINDING

An order or decision of a 1[Wage Board or Labour Court] against an employer shall bind his successors in interest, heirs and assigns in respect of the undertaking as regards which it is made or given and such order or decision against a registered union shall bind 2[all employees in the industry in the local area whose representative, the said union is].

SECTION 115A: ORDER, DECISIONS OR AWARDS TO BE IN TERMS OF AGREEMENT BETWEEN EMPLOYER AND REPRESENTATIVE UNION

If any agreement is arrived at between an employer and a Representative Union who are parties to any industrial dispute pending before an Arbitrator, Wage Board, Labour Court or Industrial Court, the order, decision or award in such proceeding shall be made in terms of such agreement, unless the Arbitrator, Wage Board, Labour Court or Industrial Court is satisfied that the agreement was in contravention of any of the provisions of this Act or the consent of either party to it was caused by mistake, misrepresentation, Fraud, undue influence, coercion or threat.

SECTION 116: AGREEMENT, ETC., WHEN TO CEASE TO HAVE EFFECT

(1) A registered agreement, or a settlement or award shall cease to have effect on the date specified therein, or if no Such date is specified therein on the expiry of the period of two months from the date on which notice in writing to terminate such agreement, settlement or award, as the case may be is given in the prescribed manner by any of the parties thereto to the other party:

Provided that no such notice shall he given till the expiry of three months after the agreement, settlement or award comes into operation.

(2) Nothing in this section shall prevent the terms of a registered agreement or a settlement 3[or an award in terms of an agreement] being changed or modified by mutual consent of the parties affected thereby 4[and the registered agreement, settlement or award shall he deemed to be changed or modified accordingly.]

(3) Notwithstanding anything contained in sub-section (1) or (2). if a registered agreement, or a settlement, or award provides that it shall remain in force for a period exceeding one year it may after the expiry of one year from the date of its commencement be terminated by either party thereto giving two months notice in the prescribed manner to the other party.

(4) The party giving notice under sub-section (1) or (3) shall send a copy of it to the Registrar and the Labour Office of the local area concerned.

(5) If a registered agreement, or a settlement or award is terminated under sub-section (1) or (3) or if

the terms of a registered agreement or a settlement 4[or an award] are changed or modified by mutual consent, notice of such termination change Or modification shall be given by the parties concerned to the Registrar and the Labour Officer. The Registrar shall enter the notice of such termination, change or modification in a register kept for the purpose.

Explanation.- For the Purpose of this section, parties who shall be competent to terminate a registered agreement, or a settlement or award, or to change or to modify the terms of a registered agreement or a settlement 4[or an award] and who shall give notice of such termination, change or modification under sub-section (5) shall be the employer who has signed the agreement or settlement or who is a party to the award or the heirs successors or assigns of such employer in respect of the undertaking concerned and the representative of the employees affected by the agreement settlement or award.

1 Subs, by Born. 43 of 1948.

2 Subs, by Born. 49 of 1955.

3 Ins, by Born. 55 of 1949.

4 Added by *ibid*.

SECTION 116A: MODIFICATION OF AWARD

(1) Any party who under the provisions of section 116 is entitled to give notice of the termination of an award may instead of giving such notice apply after the expiry of the period specified in sub-section (2), to the Industrial Court, the Labour Court or the Wage Board making the award, for its modification.

(2) Such application in the case of an award"

(a) which does not specify a date on which it shall cease to have effect shall not be made until the expiry of the period of two months from the date on which notice can be given to terminate the award under section 116;

(b) which provides that it shall remain in force for a period exceeding one year, shall not be made until the expiry of one year from the date of its commencement

(3) On such application being made, the Industrial Court, the Labour Court or the Wage Board, as the case may be, may, after hearing the parties and taking such evidence as it thinks fit modify, the award 3[whether prospectively or retrospectively, so however that the modification with retrospective effect, if any, does not operate earlier than the date of a application under Sub-section (1)

(4) Where an application for the modification of an award under sub"section (1) is made, such application shall not in any way affect the binding effect of such award in regard to the matters determined therein until it is modified.

(5) Nothing in this section shall affect the right of any party to terminate such award in accordance with the provisions of section 116.]

SECTION 117: LIABILITY OF THE EXECUTIVE OF A UNION

Where anything is required to be done by any union under this Act, the person authorised in this behalf by the executive of the union, and where no person is so authorised every member of the executive of the union, shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.-For the purposes of this section, the executive of a union means the body by what name called to which the management of the affairs of the union is entrusted.

SECTION 118: POWERS OF CERTAIN AUTHORITIES TO SUMMON WITNESSES, ETC

(1) For the purpose of holding an inquiry or proceeding under this Act, the Registrar, a Conciliator 3[a Wage Board], Board, Labour Court in its ordinary jurisdiction, a Court of Enquiry and the Industrial Court shall have the same powers as are vested in Courts in respect of

- (a) proofs of facts by affidavits;
- (b) summoning and enforcing the attendance of any PC and examining him on oath;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examinations of witnesses.

1 Ins' by Born. 74 of' 1948

2 Added by Mah. 22 of 1965.

3 Ins, by Bom 43 of 1948.

(2) The Registrar, a Conciliator, 3[a Wage Board] or Board shall also have such further powers as may be prescribed.

(3) For the purpose of obtaining the information necessary for compiling and maintaining the record under Chapter XVII the officer authorised under section 112 shall have the powers specified in clauses (b) and (c) of sub-section (1) and in sub section (2).

1[(4) A Wage Board, a Labour Court and the Industrial Court shall also have powers to call upon any of the parties to proceedings before it to furnish in writing and in such form as it may think proper any information which it considers relevant for the purposes of any proceedings before it and the party so

called upon shall thereupon furnish the information to the best of his knowledge and belief, and if so required by the Board or the Court to do so, verify the same in such manner as may be prescribed.]

SECTION 118A: OFFENCES UNDER SEC. 104 COGNIZABLE

The offence under section 104 shall be cognizable].

SECTION 118B: 2[CONSEQUENCES OF NON-APPEARANCE OF PARTIES

(1) Where in any proceeding before the Industrial Court, or a Labour Court, if either party in spite of notice of hearing having been duly served on it, does not appear when the matter is called on for hearing, the Court may either adjourn the hearing of the matter to a subsequent date or proceed ex-parte and make such award, order or decision as it thinks fit.

3[(1A) Where in any proceeding, before the Industrial Court, or a Labour Court, if neither party, in spite of notice of hearing having been duly served on him, appears when the matter is called on for hearing, the Court may make an order that the application, appeal, reference or other proceeding be dismissed.]

(2) Where any award, order or decision is made ex-parte under sub-section (1) 4[or an order of dismissal of any proceedings is made under sub-section (1 -A),] the aggrieved party may, within thirty days of the receipt of a copy thereof, make an application to the Court, to set aside such award, order or decision 5[or such order of dismissal]. If the Industrial Court or Labour Court is satisfied that there was sufficient cause for non-appearance of the aggrieved party, it may set aside the award, order or decision 5[or the order of dismissal] so made and shall appoint a date for proceeding with the matter:

Provided that, no award, order or decision 5[or the order of dismissal as the case may be,] shall be set aside on any such application as aforesaid unless notice thereof has been served on the opposite party.]

SECTION 119: CERTAIN OFFICERS TO BE PUBLIC SERVANTS

The Registrar, an Assistant Registrar, a Conciliator, a Labour Officer, an Assistant Labour Officer, an arbitrator 1[a member of a Wage Board], a member of a Board, an officer authorised under section 112, a Judge of a Labour Court, a member of the Industrial Court or a Court of Enquiry and a member of the staff of any of the said Courts shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

1 Added by Born. 63 of 1953.

2 Ins, by Mah. 22 of 1965.

3 Added by Mah. 47 of 1977.

4 Ins, by *ibid.*

SECTION 119A: CONTEMPT OF INDUSTRIAL COURT, LABOUR COURTS AND WAGE BOARD RELATING TO OMISSION TO PRODUCE DOCUMENTS. ETC

(1) If any person, -

(a) when ordered by the Industrial Court or a Labour Court or a Wage Board to produce or deliver up any document, 2[or to furnish any information,] being legally bound intentionally omits to do so; or

(b) when required by the Industrial Court or a Labour Court or a Wage Board to bind himself by an oath or affirmation to state the truth refuses to do so;

(c) being legally bound to state the truth on any subject to the Industrial Court or a Labour Court or a Wage Board refuses to answer any question demanded of him touching such subject by such Court or Board; or

(d) intentionally offers any insult or causes any interruption to the Industrial Court or a Labour Court or a Wage Board at any stage of its judicial proceedings, he shall, on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) If any person refuses to sign any statement made by him when required to do so by the Industrial Court or a Labour Court or a Wage Board, he shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) If any offence under sub-section (1) or (2) is committed in the view or presence of the Industrial Court or a Labour Court or a Wage Board, as the case may be, such Court or Wage Board may, after recording the facts constituting the offence and the statement of the accused as provided in 3[the Code of Criminal Procedure, 1973,] forward the case to a magistrate having jurisdiction to try the same and may require security to be given for the appearance of the accused person before such magistrate or, if sufficient security is not given shall forward such person in custody to such magistrate. The magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the said Code of Criminal Procedure.

SECTION 119B: OTHER KINDS OF CONTEMPTS OF INDUSTRIAL COURT, LABOUR COURTS AND WAGE BOARDS

(1) If any person commits any act or publishes any writing which is calculated to improperly influence

the Industrial Court, or a Labour Court or its Wage Board or to bring such Court, Board or, a member or a Judge thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such Court or Board, such person shall be deemed to be guilty of contempt of such Court or Board, as the case may be.

(2) In the case of contempt of itself the Industrial Court shall record the facts constituting such contempt and make a report in that behalf to the High Court.

(3) In the case of contempt of a Wage Board or a Labour Court, such Board or Court shall record the facts constituting such contempt and make a report in that behalf to the Industrial Court, and thereupon the Industrial Court may, if it considers it expedient to do so, forward the report to the High Court.

1 Ins, by Bom. 43 of 1945.

2 Ins, by Bom. 63 of 1933.

3 Subs. by Mah. 47 of 1977.

(4) When any intimation or report in respect of any contempt is received by the High Court under sub-section (2) or (3), the High Court shall deal with such contempt as if it were contempt of itself and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.]

SECTION 119C: ¹[POWER OF INDUSTRIAL COURT. ETC., TO DECIDE ALL CONNECTED MATTERS

Notwithstanding anything contained in this Act, the Industrial Court, a Labour Court, or a Wage Board, as the case may be, shall have the power to decide all matters arising out of the industrial matter or dispute referred to it for decision under any of the provisions of this Act.]

SECTION 119D: POWER OF INDUSTRIAL COURT, ETC., TO PASS INTERIM ORDERS

If any proceeding before it under this Act, the industrial Court, a Labour Court, or a Wage Board may pass such interim orders as it may consider just and proper.]

SECTION 119E: PROTECTION OF ACTION TAKEN UNDER THIS ACT

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.]

SECTION 120: PROVISIONS OF ACT VII OF 1929 NOT TO BE AFFECTED

Nothing in this Act shall affect any of the provisions of the Trade Dispute Act, 1929, and no conciliation or arbitration proceeding shall be held under this Act relating to any matter or trade dispute which has been referred to and is pending before a Court of Enquiry or Board or Conciliation under the said Act.

SECTION 121: 2[REPEAL OF BOM IX OF 1934

Bombay Trade Disputes Conciliation Act, 1934, is hereby repealed.]

SECTION 122: REPEAL OF BOM. XXV OF 1938

The Bombay Industrial Disputes Act, 1938, is hereby repealed:

Provided that-

(a) every appointment, order, rule, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the provisions of this Act, unless and until superseded by any appointment, order, rule, regulation, notification or notice made, issued or given under this Act;

(b) any standing order settled, agreement registered, changes which have come into operation, settlements recorded or registered, submissions registered, awards made or orders passed by the Industrial Court, under the provisions of the Act so repealed shall be deemed to have been settled, registered, to have come into operation, to have been recorded, made or passed by the appropriate authority under the corresponding provision of this Act;

(c) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed shall not be affected and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability shall, so far as it is not inconsistent with the provision of this Act, be made, instituted and availed of as if the said Act had not been repealed and continues in Operation;

2 Subs, by Mah. 22 1965.

(d) any proceedings pending before the Industrial Court, conciliation proceedings, or any proceedings relating to the trial of offences punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed and continues in operation; and any penalty imposed in such proceedings shall be recorded under the Act so repealed;

(e) a Registered Union or a Representative Union or a Qualified Union or other representatives elected, entitled to appear or act as the representatives of employees under the Act so repealed shall, notwithstanding the repeal of the said Act, continue to act as the representatives of employees in any proceedings under this Act for a period of three months from the date on which this Act comes into force.

SECTION 122A: 1[DELEGATION OF POWERS

The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to it as may be specified in the notification.]

SECTION 123: RULES

(1) The 2[State Government may by notification in the Official Gazette make rules to carry Out the purposes of this Act.

(2) In particular and without Prejudice to the generality of the foregoing provisions such rules may be made for all or any of the following matters, namely:

(a) the authority to be prescribed under sub-clause (C) of clause (14) of section 3;

(h) the manner in which the panels representing the interests of employers and employees shall be constituted and the manner in which vacancies in the Board of Conciliation shall be filled up under section 7:

(c) the qualifications for being eligible to be appointed to preside over Labour Courts under section 9;

(d) the form in which the registers of unions and the approved list shall be maintained under Section 12;

(C) the form of application under sub-sections (1), (2) and (3) of section 13;

(f) the fee to be paid, and the form of certificate of registration to be issued under section 14;

(g) the fee to be paid under sub-section (1) t form of certificate of registration under sub-section (3)1,

- and the manner of publication under sub-section (4) of section 16;
- (h) the fee to be paid under sub-section (1) of section 17;
- (l) the dates on which and the manner in which returns shall be submitted under Section 19;
- (j) the manner of publication of orders under section 21;
- (k) the manner of registration of a union for more local areas than one under Section 22;

1 ins by Mah 22 of 1965

2 Subs. by the adaption of laws order 1950.

- (1) the form of application under section 23;
- (m) the officers 1[members of the office staff 2[and members of approved unions) to be authorised under section 25 and the manner in which and the conditions subject to which the rights under the section shall be exercised;
- (n) the fees to be prescribed under sub-section (6) of section 26;
- 3[na the procedure to be followed by the Registrar for ascertaining membership of unions for the purposes of Chapter 111 3[IV and V];
- (nb) the manner of submitting objection to such membership and the amount of deposit which the Registrar may require to be made before entering upon the inquiry;
- (nc) the fine which may be imposed by the Registrar for any frivolous or vexatious objections to membership;
- (o) the authority to be prescribed under clause (b) of sub-section (2), and the manner of determining the representative of employers under sub-section (3), of section 27;
- (p) the manner in which the persons shall be elected under sub-section (1), recalled under sub-section (4), the period for which and the manner in which they shall function and the manner in which vacancies shall be filled under sub-section (5), of section 25;
- (q) the manner of authorising a Qualified or Primary Union under clause (iii) of, the manner of accepting the terms of an agreement or settlement under proviso Secondly and the number or representatives and the manner of their election under proviso Thirdly to, section 30;
- (r) the conditions subject to which the powers of entry and the inspection shall be exercised under sub-section (2) of section 34;
- (s) the manner of submission of draft standing orders under sub-section (1), and the manner of consulting the representative of employees and other interests under sub-section (2) of section 35;
- (t) the form of notice and the other persons to be prescribed under sub-sections (1) and (2) and the

manner of approach and the period to be prescribed under the proviso to sub-section (4) of section 42;

(u) the other persons to be prescribed under sub-section (5) of section 43;

(v) the manner of forwarding the memorandum of agreement under sub-section (1) of section 44;

(w) 5 [the number of members of a Joint Committee, the manner of nomination of members by the union and the manner of giving copies of orders under sub-section (1), and] the appointment of the chairman and the manner in which he shall perform his duties under sub-section (2), of section 49;

1 ins. by Born. 63 of 1953.

2 ins, by Born. 43 of 1948.

3 Ins, by Born. 49 of 1955.

4 Ins, by Mali. 22 of 1965.

5 Subs. by Mah. 43 of 1949.

(x) the manner of conducting the proceedings of a Joint Committee under sub-section (2) of section 50;

(y) the manner in which the memorandum of agreement shall be forwarded under sub-section (1), the form in which a special intimation shall be forwarded under sub-section (2), and the other persons to be prescribed under sub-section (4), of section 52;

(z) the form in which the statement shall be forwarded under sub-section (1) of section 54;

(aa) the manner of holding conciliation proceedings under sub-section (1) of section 56;

(ab) the form in which the memorandum of settlement shall be drawn up, and the manner of its publication under sub-section (1) of section 58;

(ac) the manner of giving notice under sub-section (2) of section 59;

(ad) the procedure to be followed by a Conciliator or Board under sub-section (1) of section 60;

(ae) the manner of publication of a submission under sub-section (3) of section

66;

(af) the modifications to be prescribed under sub-section (2), and the manner of making the employers parties to arbitration under sub-section (3) of section 72;

(ag) the manner of publication under sub-section (2) of section 74;

(ah) the form and manner in which an application shall be made under sub-section (2) of section 79;

1[aha the other industrial matters and disputes under sub- section (1) of section 86C;

(ahb) the rules of procedure to be followed by a Wage Board under section 86E;j

(ai) the manner in which the record shall be maintained under section 111;

(aj) the conditions to be prescribed under sub-section U) of section 112;

(ak) the manner of giving notice under sub-section 116;

(al) the further powers of the Registrar, a Conciliator, 1[wage Board or Board under sub-section (2), 2[and the manner of verifying information under sub-section (4) of section 118];

(am) any other matter which is required to be or may be prescribed.

(3) The rules made under this section shall be subject to the conditions of previous publication in the Official Gazette.

3[(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the Expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment, shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

1 Ins, by Born. 43 of 1948.

2 Subs. 1)y Born. 63 of 1953

3 Added by Nlah. 22 of 1965.

SECTION 123A: REPEAL OF C.P. AND BERAR ACT XXIII OF 1947

The Central Provinces and Berar industrial Disputes Settlement Act, 1947, is hereby repealed:

Provided that -

every appointment, order, rule, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the provisions of this Act, unless and until superseded by any appointment, order, rule, notification or notice made, issued or given under this Act;

(b) any standing order, agreement or settlement recorded or registered, changes which have come into operation, submissions entered into, awards made or orders passed by the State Industrial Court, a District Industrial Court, the Labour Commissioner, the Registrar or the Wage

Board, under the provisions of the Act so repealed shall be deemed to have been settled, recorded or registered. conic into operation, entered into, made or passed by the appropriate authority under the corresponding provisions of this Act;

(c) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed shall not be affected and any investigation, legal proceedings, or remedy in respect of an such right, privilege, obligation or liability shall so far as it is not inconsistent with the provisions of this Act, he made, instituted, continued and availed of as it the said Act had not been repealed and continues In operation;

(d) any proceedings pending before the State Industrial Court, district Industrial Court, the Labour Commissioner, the Registrar or the Wage Board, conciliation proceeding or any proceedings relating to the trial of offences punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act has not been repealed and continued in operation and penalty imposed in such proceedings shall be recorded under the Act so repealed;

(e) any union registered as a recognised union for an local area for an industry under the Act so repealed shall he (teemed to he a representative union for the industry in that local area under this Act;

(f) any other representatives elected, entitled to appear or act as representatives of employees under the Act so repealed shall, notwithstanding the repeal of the said Act, continue to act as the representatives of employees in an proceedings under the Act so repealed till the completion of the Proceedings.]

SCHEDULE I

(Section 35)

Classification of employees e.g. permanent, temporary, apprentices, probationers, badlis, etc. 1[and the manner of filling posts becoming vacant and determining seniority of badlis, and all matters connected with the purposes aforesaid].

2[1A Employees' tickets, cards, registers and service certificates]

2. Manner of notification to employees of periods and hours of work. holidays, pay days and wage rates.

3. 3[Shift working including notice] to be given to employees of starting, alteration or discontinuance of two or more shifts in a department or departments.

4. Closure or reopening of a department or a section of a department or the whole of the undertaking.

5. Attendance and late coming.

4[(6) Procedure and authority to grant leave.

7. Procedure and authority to grant holidays.]
 8. Liability to search and entry into premises by certain gates.
 9. Temporary 5[closures of work including paying off, and rights and liabilities of employers and employees arising therefrom.
 10. Termination of 6[employment including notice] to be given by employer and employee.
 11. 7[Punishment including warning, censure, fine, suspension or] dismissal for misconduct, suspension pending inquiry into alleged misconduct and the acts or omissions which constitute misconduct.
 12. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
- 8[13. Age for retirement or superannuation.]
- 9[14 Employment or re-employment of probationers or badlies or temporary or casual workmen, and their conditions of service.]

1 Added by (IN., dated 16.10.1970.

2 Ins, by (LX. dated 17.9.1948.

3 Subs, by ibid.

4 Subs. b (LX., dated 23.10.1952.

5 Subs, by U.N., dated 17.5.1950.

6 Sub';. by (IN., dated 17.'. 1)45,

7 Subs. by (LX., dated 11.4.1050,

8 Added b U.N., dated 19.5.1)56,

9 Added by MaO. 47 ol' I 077.

SCHEDULE H

(Section 42)

1. Reduction intended to be of permanent or semi-permanent character in the number post or of persons employed or to be employed in any occupation or in any department or departments or in a shift not due to force majeure.
2. Permanent or semi-permanent increase in the number of persons employed or to be employed in any occupation or process or department or departments.

3. Dismissal of any employee except as provided for in the standing orders applicable under this Act.
 4. Rationalisation or other efficiency- system of work, 1[whether by way of experiment or otherwise]
 - 2[5. All matters pertaining to shift working which are not covered by the Standing Orders applicable under this Act.]
 6. Withdrawal of recognition to unions of employees.
 7. Withdrawal of any customary concession or privilege or change in usage.
 8. Introduction of new rules of discipline or alteration of existing rules and their interpretation, except in so far as they are provided for in the standing orders applicable under this Act.
 9. Wages including the period and mode of payment.
 10. Hours of work and rest intervals
- 3[1. All matters pertaining to leave and holidays, other than those specified in items 6 and 7 in Schedule 1.1

SCHEDULE III

(Section 42)

- (1) Adequacy and quality of materials and equipment applied to the workers.
- (2) Assignment of work and transfer of workers within the establishment.
- (3) Health, safety and welfare of employees (including water, dining sheds, rest sheds, latrines, urinals, creches, restaurants and such other amenities).
- (4) Matters relating to trade union organization, membership and levies.
- (5) Construction and interpretation of awards, agreements and settlements.
- (6) Employment including "
 - (i) reinstatement and recruitment;
 - (ii) unemployment to persons previously employed in the industry concerned.
- (7) Payment of compensation for 4[Closure

THE BOMBAY INDUSTRIAL RELATIONS RULES, 1947

En exercise of the powers conferred by section 123 of the Bombay Industrial Relations Act, 1946 (Born. XI of 1947), the Government of Maharashtra is pleased In make the following rules, namely:-

1. Short title. - These rules may be called the Bombay Industrial Relations Rules, 1947.

2. Definitions. - (1) In these rules unless there is anything repugnant in the subject or context,

(i) "Act" means the Bombay Industrial Relations Act, 1946;

(ii) "Form" means a form appended to these rules;

(iii) "Schedule" means a Schedule appended to the Act; (iv) "Section" means a section of the Act.

(2) Words and expressions not defined in these rules shall have the meanings assigned to them under the Act.

3. The State Government shall maintain two separate panels of an equal number of persons representing the interests of employers and employees for the purposes of appointment on Boards of Conciliation constituted under section 7. Before making appointments to these panels the State Government shall invite such organizations of employers and workers and such other bodies and persons as it may deem fit to recommend the names of suitable persons for this purpose. The members of the panels shall be selected from the names so recommended.

4. The list of panels constituted under rule 3 shall be published in the Official Gazette.

5. The name of any member of a panel who has been adjudged a bankrupt, or has been declared insane or who has been convicted in a criminal proceeding for an offence involving moral turpitude shall be removed from the panel.

6. Any vacancy on these panels which may have been caused by resignation, death or by virtue of rule 5 shall be filled in the manner provided for in rule 3. The appointment of a person in every vacancy so filled shall be notified in the Official Gazette.

7. Any vacancy which has been created on a Board shall be filled by the State Government in the case of a member either by an independent person or from the panel concerned according as the original member was an independent person or a person from the panel and in the case of the Chairman by an independent person. The name of the person so appointed shall be notified in the Official Gazette.

8. If a Chairman or any member of a Board is adjudged a bankrupt or is declared insane or is convicted in any criminal proceeding for an offence involving moral turpitude, he shall cease to be a

member of such Board and the vacancy so created shall be filled in the manner laid down in rule 7.

9 [* *]

1. Deleted vide 131R (Amendment) Rules, 1980, R.2 published in M.G.G. Part 1"L, dated 30th July 1980 at page 5711.

10. The registers of unions referred to in section 12 shall be maintained in Forms A, B and C.

11. The list of approved unions for registration under section 12 shall be maintained in Form D.

12. Application by unions for registration under section 13 shall be in Form E.

13. The fee payable for registration of a union under section 14 shall be rupee one.

14. The certificate of registration issued by the Registrar under section 14 shall be in form F.

14A. An application under sub-section (1) of section 16 by an applicant union shall be in Form F-A.]

15. The fee payable by a union which makes an application to the Registrar under section

16 shall be Rs 10

15A.- The certificate of registration to be issued by the Registrar under sub-section (3) of section 16 shall be in Form F- B].

16. Every application made by a union under section 16 shall be published by the Registrar in the Official Gazette.

17. Any union making an application for re-registration under section 17 shall apply in Form G.

18. The fee payable by a union for re-registration under section 17 shall be rupee one.

19. Any change in the address of the head office of a registered union shall be communicated in writing to the Registrar within seven days of such change, and the changed address shall be recorded in the appropriate register maintained under section 12.

20. (1) Any change in the name of a registered union shall be communicated in writing to the Registrar within seven days of the registration of such change under the [* * I Trade Unions Act, 1926. The change in name shall be recorded by the Registrar in the appropriate register maintained under section 12 and notified in the Official Gazette.

(2) The Registrar shall certify under his signature at the foot of the certificate issued under rule 14 [or rule 15A] that the new name has been registered.

21.(1) Every employer in any industry in any local area to which the Act applies under sub-section (3) of section 2 shall within seven days of the date on which the Act comes into force and every employer in any industry in any local area to which all or any of the provision of the Act have been applied under sub- section (4) of section 2 shall also within seven days of the date on which such provisions of the Act have been applied to that industry and thereafter on or before the tenth day of every month forwarded by registered letter to the Registrar a statement in such form as the Registrar may require, showing correctly the number of employees employed by him on the first working day of the month. In all cases where work is done in two or more shifts, the employees in all the shifts shall be included in the number of employees for whom the return is to be made.

(2) Every employer of an undertaking in any such industry shall also forward to the Registrar such statement in the manner provided in sub-rule (1) within seven days of the date on which such undertaking was started by him after the coming into force of the Act or as the case may be after the application of all or any of the provisions of the Act to such industry and thereafter on or before the 10th day of every month.

22. Every registered union shall, on or before the twentieth day of every month, forward by registered letter to the Registrar a statement in such form as the Registrar may require. Such statement shall, in the case of union other than a Representative Union, show correctly the number of members the Union had in each occupation for the month immediately preceding the previous month separately for each undertaking of each employer, within the local area for which the union is

registered with whom the members of the union were employed. In the case of a Representative Union such statement shall show correctly the total number of members the Union had in the industry concerned for the month immediately preceding the previous month within the local area for which the Union is registered. Where the Union is registered for more local areas than one, there shall be a separate statement for each such local area.

23. The Registrar may call upon any employer or any union to produce such documents and supply such further information as he may deem necessary to prove that the information supplied under rules 21 and 22 is correct.

24. (1) The Registrar shall forward in the month of March, June, September and December every year a consolidated statement for the quarter ending December, March, June and September, respectively, for every industry separately to the Labour Officer of each local area containing -

(i) where there is no Representative Union for an industry in a local area -

(a) the number of members each Registered Union has in each occupation in each undertaking in the local area; and

(b) the number of employees employed in each occupation in each undertaking in the local area; and

(ii) where there is a Representative Union for an industry in a local area -

(a) the number of members of the Representative Union in the industry in the local area; and

(b) the total number of employees in the industry in the local area.

(2) Such statements shall be open to inspection by any employer or any union in the industry in the local area.

25. (1) Where no Representative Union exists for an industry in a local area any employer or any union in such industry, may call upon the Registrar in writing for information in connection with the total number of employees in any occupation or undertaking such industry and the number of members each registered union has in any occupation in such industry.

(2) Where a Representative Union exists for an industry in a local area any employer or union may call upon the Registrar in writing for information in connection with the total number of employees employed in the industry in the local area and the total number of members of the Representative Union in the industry in the local area.

26 (1) Every order passed under section 14, 15, 16, 23 or 24 and every order passed iii al)peal

under section 20, "

(a) shall be published by the authority making the order in the Official Gazette whether such authority considers it necessary to do so, having regard to the importance of the orders; or

(h) shall be displayed by such authority on the Notice Board in its office, in other cases.

(2) Every order referred to in sub-rule (1) shall be forwarded by the said authority to every union affected by or concerned with the order and also to the Commissioner of Labour, Bombay.

27. Any union desirous of being registered for an industry for more than one local area shall in Form B and the provisions of rules 13 and 14 shall apply to such registration.

28. An application by a union for being entered in the approved list under sub-section (1) of section 23 shall be in Form H and the application under sub-section (4) of that section shall be in Form H[A].

28A. (1) For ascertaining the membership of unions for the purposes of the provisions of section 13, 16, 17 or 23, the Registrar shall hold an inquiry in the manner hereafter provided.

(2) The Registrar shall fix a date for holding an inquiry for ascertaining such membership and shall give fifteen days notice thereof to the union or unions concerned.

(3) On receipt of such notice each such union may submit its objection if any, to the Registrar in writing in duplicate and shall produce before the Registrar, the following documents:

(a) Membership Register;

(b) Counterfoils of receipts of 2 for nine calendar months in the case of an application under section 13 or 16 and for seven calendar months in the case of an application under sub-section (1) or (4) of section 23] immediately preceding the calendar month in which the application is made;

(c) Minute book;

(d) Cash-book;

(e) Bank Pass Book, if any;

(f) An audited statement of membership for [of the nine calendar months in the case of an application under section 13 or 16, and for each of the seven calendar months in the case of an application under sub-section (1) or (4) of section 23] immediately preceding the calendar month in which the application is made; and

(g) Such other documents as the Registrar may from time to time direct during the course of an inquiry.

(4) Every such objection shall be accompanied by a deposit of Rs.5.

(5) Where the union to whom notice has been given under sub-rule (2) fails to be present before the Registrar on the date fixed for the inquiry or fails to produce the documents as required by sub-rule (3) then,

(a) if such union is an applicant, the Registrar may dismiss the application; and

(b) if such union is not an applicant, the Registrar may proceed with the inquiry ex-parte:

Provided that on sufficient cause being shown by the Union whose application has been dismissed, the Registrar may set aside the order of dismissal and fix a date for holding the inquiry.

(6) The documents produced at the inquiry by union shall be open to inspection to other unions, who may be party to the inquiry, for a period of ten days, from the date of their production or for such further period as the Registrar may allow.

(7) The Registrar may adopt such sampling method as he may deem fit, in verifying the membership register of a union.

(8) Where in respect of objections raised against the membership of a union, the number of witnesses to be examined is very large, the Registrar may examine such number of witnesses as he may determine by adopting such sampling method as the Registrar may deem fit. The Registrar may, with the consent of the parties, examine the witnesses in camera.

(9) If in the course of the inquiry, the Registrar comes to a conclusion that an objection raised against the membership of the union was frivolous or vexatious, he may impose a fine not exceeding Rs.5 for every such objection.

29. The President, the Vice-President, the General Secretary, the Secretary, the Joint

Secretary, the Assistant Secretary, the Treasurer of an approved union, such members of the office staff of the union as have been authorised by the President in this behalf and such members of the union as have completed at least six months of membership and been authorised by the President in this behalf shall, subject to the following conditions, be entitled to collect sums payable by its members on the premises of an undertaking where wages are paid to them:-

(a) the name or names of the officer or officers or member or members of the

office staff or member or members of the union authorised in this behalf shall be intimated in advance to the employer and changes, if any, therein shall be communicated to the employer at least 24 hours before the date of collection;

(b) the officers, members of the office staff or members of the union visiting the undertaking for this purpose shall carry a letter of authority in Form

I -A [and such letter of authority duly signed by the General Secretary or Secretary of the Union shall be sufficient authority for the persons authorised under that Form to collect the sums without any let

or hindrance];

(c) no coercion or force shall be used on any employee;

(d) the collection shall be made without causing hindrance to the staff of the undertaking or interference in the management's work:

(e) not more than 25 employees at a time shall be allowed to gather at the place where such sums are collected;

(f) Collections shall be made on the usual pay day or days and the subsequent three days and the day or days on which unclaimed wages are paid;

Provided that (i) on the usual pay day or days and the collection shall be made during the hours of payment and (ii) on any other days the collection shall be made during such hours as may be mutually agreed upon between the employer and the union subject to the condition that the period shall not be more than three hours on each of such days.

30. The President, the Vice-President, the General Secretary, the Secretary, the Joint Secretary, the Assistant Secretary and the Treasurer of an approved union shall be entitled to put up or cause to be put up a notice board outside the time keeper's office or at any other conspicuous place mutually agreed upon between the employer and the union and affix notices thereon during the hours the undertaking is open:-

Provided that,-

(a) the notice board to be put up shall be of a reasonable size;

(b) the notices to be affixed shall be signed either by the President, the Vice-President, the General Secretary, the Secretary, the Joint Secretary, the Assistant Secretary, or the Treasurer; such notices shall relate to lawful activities of the unions and shall not be of an offensive or provocative nature.

31. Subject to the provisions of rules 32, 33 and 34, the President, the Vice-President, the General Secretary, the Secretary, the Joint Secretary, the Assistant Secretary and the Treasurer of an approved union shall, for the purpose of the prevention or settlement Of an industrial dispute, have a right and shall be permitted by the employer to do all or any of the acts mentioned in sub-clauses U), (ii) and (iii) of clause (C) of section 25

32. The officers specified in rule 31 shall have a right shall be permitted by the employer to hold discussions on the premises of the undertaking with the employees concerned who are members of the approved union:

Provided that-

(a) the union shall intimate in advance to the employer the name or names of the officer or officers,

authorised for the purpose and the name of the department or departments in which the members concerned are employed; and

(b) the discussions shall be held in such manner as not to interfere with the working of the undertaking.

33. The officers of an approved union specified in rule 31 shall have a right to meet and discuss with an employer or any person appointed by him for the purpose the grievances of its members employed in his undertaking subject to the following conditions, namely:

(a) the discussion shall ordinarily be held on two days in a week during such hours as may be fixed by agreement between the employer and the union except in urgent cases when it may be held on any day at any time by previous appointment;

(b) the union shall ordinarily communicate in advance the nature of the grievances which it desires to discuss;

(c) the name of the officer authorised in this behalf shall either be communicated to the employer in advance or such officer shall carry a letter of authority in Form I-B (and such letter of authority duly signed by the General Secretary or Secretary of the Union shall be sufficient authority for the persons authorised under that Form to meet and discuss with the employer or any person appointed by him the grievances of its members.)]

34. Any of the officers, specified in rule 31, shall have a right and shall he permitted by the employer to inspect in any undertaking any place where any member of the union is employed provided he carries with him a letter of authority in Form I-C and informs the employer before hand which place in the undertaking he desires to inspect. letter of authority duly signed by the General Secretary or Secretary of the Union shall he sufficient authority for the persons authorised by that Form to inspect in any undertaking any place aforesaid.]

35. (1) The following shall he the fees for the purposes of sub-section (6) of section 26:-

Table of maximum Fees for Legal Aid

Particulars	Industrial Court	Labour Court
(1) for each conference with legal adviser	40	20
(2) For drawing up an Application written statement, memorandum of appeal or petition of more than 15 fullscape typed	50	25

(3) For drawing up an Application written statement, memorandum of appeal or petition of less than 15 fullscape typed	30	15
(4) For appearance in court(per day)	80	40
(5) For opinion of legal adviser in writing	60	30
(6) For appearance in chamber matter or for appearance before the officer of the court	20	10
(7) Fees for retainer	30	30

(2) Fees in excess of those prescribed in sub-rule (1) may be given to senior consul or legal practitioners of high standing in matters of importance or difficulty before the Industrial Court.

36. Any association of employers desiring recognition as an association of employers under the Act shall apply to the Registrar in Form J. On receipt of such application, which shall be in duplicate, the Registrar shall forward a copy of the application to the State Government with such remarks as he may deem necessary.

37. (i) Every association of employers which has been recognised by the State Government under section 27 shall notify to the Registrar of every change, which occurs in its name, memorandum of association or constitution or membership within seven days of such change.

(ii) Any such change in the name of an association of employers shall be notified in the Judicial Gazette.

38. Any employer in an industry, not being a member of an association of employers connected with that industry, who has agreed to be represented in any proceeding under the Act by such association, shall send intimation in writing to that effect to the Registrar and shall send copies of such intimation to the Labour Officer for the local area, to the authority holding the proceeding and to the representative union for the industry, if any.

39. (i) Where more employers than one are affected or under any of the provisions of the Act deemed to be affected and no association of employers is under sub-section (2) of section 27 entitled to represent all of them the representative determined in the following manner shall be entitled to act as their representative -

(a) Where there is an association of employers and two-thirds or more of the employers who are not members of the association agree to be represented by the association, that association

(b) Where there is an association of employers but less than two-thirds of the employers who are not members of the association are in favour of their being represented by the association, not more than five representatives elected from among all the employers at a meeting held by the Labour Officer for the purpose, provided that at least one of the representatives shall be from among the employers who have not agreed to be represented by the association;

(c) In all other cases, not more than five representatives elected by the employers at a meeting held by the Labour Officer for the purpose:

Provided that where the number of employers affected or deemed to be affected does not exceed five, no election shall be held and all the employers concerned shall be entitled to act as the representative;

(d) Any vacancy in the representatives elected under clause (b) or (c) shall be filled by election at a meeting of the employers held by the Labour Officer for the purpose:

(2) The names of persons elected as representatives shall be communicated by Labour Officer to the Registrar and the authority holding the proceeding.

40. (1) Where there is no Representative Union in respect of any industry in any local area, the Labour Officer for the local area or any person deputed by him for the purpose shall hold meetings of the employees in each undertaking in the industry and each occupation therein at such place and time as he deems fit; and different places and different times may be fixed by him for holding such meetings. At such meetings the employees may elect live representatives from among themselves.

1A Where in view of the number of employees employed or the nature of work involved in any industry meetings of employees in each undertaking in such industry and each occupation therein cannot be held under sub-section (1) the Labour Officer or any person deputed by him for the purpose may hold election at different places and different times for the election of representatives of such employees by ballot

(2) Where an election has been held under sub-section (1) of section 28 within two years from the date on which such election is held and within each succeeding two years thereafter, the Labour Officer or any person deputed by him for the purpose shall hold meetings of the employees for the purpose of electing fresh representatives from among themselves.

(3) After the election of the representatives of employees the Labour Officer shall intimate the names of the (i) elected to the employer concerned. Copies of such intimation shall be sent to the Registrar,

the Chief Conciliator and the Conciliator for the industry in the local area.

41. Subject to the provisions of sub-section (4) of section 28, the persons elected under rule 40 shall function as the representatives of employees until such time as fresh elections are held by the Labour Officer and the names of the I)C SO elected are communicated by him to the employer concerned.

42. Copies of the intimation referred to in sub-rule (3) of rule 40 shall be affixed by the employer prominently outside the time-keeper's office and at the entrance through which the majority of the employees enter the undertaking.

43. (1) The employees in an occupation or undertaking desiring to recall a representative of employees shall send a requisition in writing to the Labour Officer for the local area. Such requisition shall be signed by at least twenty percent of the employees in the occupation or undertaking, as the case may be, and shall state the reasons for the recall.

(2) On receipt of such a requisition the Labour Officer shall, as soon as may be hold a meeting of the employees in the occupation or undertaking, as the case may be, and explain to them the object of the meeting. If the majority of the employees present at the meeting decides to recall the representative or representatives mentioned in the requisition the person or persons so recalled shall be deemed to have ceased to represent the employees concerned.

(3) The Labour Officer shall intimate to the employer concerned, the Chief Conciliator for the industry in the local area and the Registrar the name or names of the persons who have been so recalled.

44. Any vacancy in the representatives elected under sub-section (1) or (3) of section 28 shall be filled by election in the manner prescribed in rule 40:

Provided that when the vacancy is caused by a recall under sub-section (4) of section 28 the Labour Officer may call upon the same meetings as the one called for the purpose of recalling to elect fresh representative or representatives as the case may be in place of the person or persons recalled.

45. Employees desiring to authorise under clause (iii) of Section 30 any Qualified or Primary Union in the industry in which they are employed shall do so through their elected representatives who shall inform in writing to that effect the employer concerned, the Registrar, the Conciliator for the industry in the local area and the Labour Officer for the local area:

Provided that where there are no elected representatives of the employees concerned such authority and intimation shall be given through the employees, not exceeding five, selected by them

for the purpose.

46. Where the Labour Officer is the representative of employees the Labour Officer shall, before entering into any agreement under section 44 or 44"A or settlement under section 44B or 58, place the terms of such agreement or settlement before a meeting of the employees concerned. Such meeting shall be convened by the Labour Officer or any person deputed by him for the purpose at such place and time as the Labour Officer may decide and in such manner as he deems fit. If the majority of the employees present at the meeting accept the terms of agreement or settlement all the employees affected shall be deemed to have accepted the terms of such agreement or settlement.

47. (1) Where in any proceeding the persons entitled to appear or act under clause (v) of section 30 are more than five the Labour Officer or any person deputed by him for the purpose shall hold a meeting of such persons at such place and time as he deems fit. The persons elected at the meeting shall be entitled to appear or act as the representatives of employees in that proceeding and their names shall be communicated by the Labour Officer to the employers and association of employers concerned, the Chief Conciliator, the Registrar and the authority holding the proceeding.

(2) The number of persons to be elected under sub-rule (1) shall be determined in the following manner

Number of persons entitled to act under clause (v) of section 30.

Less than 15-5

15to50-9

51 to 100-13

100to200-17

201 to 400-21

401 and above-25

[For the purposes of the proviso to sub"section (1) of section 33A, the Labour Officer for the local area or any person deputed by him for the purpose, shall hold a meeting of the employees on either side of the depute at such place and time as he deems fit. At such meeting, the employees may elect, two persons from among themselves their representatives who shall appear and act on their behalf in the dispute. The names of the elected persons shall be communicated by the Labour Officer to the Industrial Court or the Labour Court, as the case may be.]

Elections under rule 39 & 40 except sub-rule (IA)], rules 44, 47 and 47A shall ordinarily be by show of hands unless the Labour Officer concerned, or as the case may be, the person deputed by him

for reasons to be recorded in writing thinks it necessary that the election should be by ballot 2[or if 10 percent of the employees present require for such a ballot.]

48. Within six weeks of the date of the application of the Act or any provisions thereof to any industry in any local al-ca, and in the case of an undertaking started after the applications of the Act or any provisions thereof to such industry within six months of the starting of the undertaking, every employer in the industry concerned shall forward by registered letter to the Commissioner of Labour, Bombay, three copies of the draft standing orders which lie O to adopt for regulating the relations between him and his employees:

Provided that where an employer, who is a member of an association of employers, notifies the Commissioner of Labour in writing that lie has agreed to the association submitting such standing orders on his behalf and the association submits the standing orders within the period specified in sub-section (1) of section 35 shall be deemed to have complied with the provisions of that sub-section.

49. (1) The Commissioner of Labour shall forward a copy of the draft standing orders to the representative of employees of the undertaking concerned and to such other interests concerned in the industry as he may deem fit to consult and ask them to send their views thereon within 30 days of the date on which the CO of such orders was forwarded to them.

(2) On receipt of the views o the representative of employees and the interests concerned or on the expiry of the period of 30 days of the date of despatch of the draft standing orders whichever is earlier, the Commissioner of Labour shall call a conference of the representatives of employees and employers and such other interests in the industry as may have been addressed by him under sub-rule (1) for consultation and then settle the standing orders finally.

50. (1) The Commissioner of Labour after he has settled the standing orders shall forward a copy of such standing order to the Registrar and shall also send copies of the same to the Labour Officer for the local area, the employer or the association of employers as the case may be, the representative of employees concerned, the Industrial Court and the Labour Court concerned.

(2) The Registrar shall, as soon as the standing orders have been recorded, intimate to the employer or the association of employers as the case may be and to the representative of employees concerned the date on which the standing orders were recorded.

(3) After the expiry of a period of 30 days from the date of their coming into operation the employer concerned shall, unless an appeal has been filed under sub-section (1) of section 36, print the standing orders settled and forwarded to him by the Commissioner of Labour in English and also in the principal regional language of the local area in which the undertaking of such employer is situated:

Provided that in undertakings where more than twenty per cent of the total number of employees employed are Mussalmans such standing orders shall be printed in Urdu.

(4) Where an appeal has been filed under sub-section (1) of section 36 the standing orders as settled by the Industrial Court shall be printed by the employer in the same manner as prescribed by sub-rule (3).

(5) Every set of standing orders printed as required by sub-rule (3) or (4) shall be pasted by the employer concerned prominently on a special board to be maintained for the purpose outside the time-keeper's office or at the entrance through which the majority of the employees enters the undertaking and also in all the departments where the employees concerned are working.

51. Any employer intending to effect any change in respect of an industrial matter mentioned in Schedule II shall give notice of such intention to the representative of employees in Form K.

52. Any employee who desires a change in respect of an industrial matter not specified in Schedule I or III shall give notice to the employer through the representative of employees in Form L.

53. (1) Any employee or a Representative Union desiring a change in respect of i) any order passed by the employer concerned under Standing Orders or (ii) any industrial matter arising out of the application or interpretation of Standing Orders or (iii) an industrial matter specified in Schedule HI shall make an application in writing to the employer. An application for change in respect of an order passed by the employer under Standing Orders shall be made within a period of 2[three months] from the date of such order.] Where such application is made by an employee it may be made to the employer direct or through the Labour Officer for the local area or the representative of employees concerned. A copy of the application shall be forwarded to the Commissioner of Labour and in cases where such application is not made through the Labour Officer for the local area to that officer.

(2) Where an application has been made by an employee under sub-rule (1) the employer and the employee may arrive at an agreement within fifteen days of the receipt of the application by the employer or within such further period as may be mutually fixed by the employer and the employee or the Labour Officer for the local area or the representative of employees as the case may be.

(3) Where an application has been made by a Representative Union under sub-rule (1), the employer and the Representative Union may arrive at an agreement within fifteen days of the receipt of the application by the employer or within such further period as may be mutually agreed upon by the parties.

54. The agreement referred to in sub-section (1) of section 44 shall be sent to the Registrar by registered letter and to the other officers specified therein by ordinary post.

55. (1) The Joint Committee shall consist of ten members of whom five shall be nominated by the registered union from among the employees in the undertaking or occupation concerned and five appointed by the employer concerned.

(2) Within 30 days of the decision to constitute a Joint Committee for an undertaking or occupation and every 12 months thereafter the employer and the registered union shall appoint or nominate or represent them on the committee.

(3) Before making such nominations the registered union shall call a meeting and consult the employees of the undertaking or occupation concerned as the case may be.

Provided that no such meeting may be called before making a nomination for the first time.

55A. A copy of an order made by the State Government under sub-section (1) of section 49 shall be sent to the union and the employer concerned by registered Post.

56. In the event of a member of the Joint Committee ceasing to be employed in the undertaking or Occupation or retiring or ceasing in any other way to be a member of such a Committee, the vacancy shall be filled by nomination in the manner prescribed in rule

55 by the registered union or appointment by the employer according as the person who has ceased to be a member was nominated by the union or appointed by the employer.

57. (1) The Chairman of a Joint Committee shall be appointed by the members if the Committee from among themselves at its first meeting which will be convened by the employer.

(2) If the members cannot agree upon the person to be appointed as Chairman the employer and the registered union which nominated the members of the Joint Committee shall be entitled to appoint by agreement the Chairman from among the members.

(3) Failing agreement between the employer and the union the Chairman shall be appointed by the employer and the union respectively in rotation for a period of six months.

58. The Chairman, who shall convene and preside over the meeting of the Joint Committee, shall circulate the agenda of the meeting to the members along with the notice of the meeting, except in the case of a special meeting at least 48 hours before the meeting. He shall cause the minutes of every meeting recorded and get them confirmed at the next meeting. He shall also communicate, as

required by sub-section (2) of section

51, the decisions of the Joint Committee to the registered union and the employer as well as Labour Officer and the Commissioner of Labour.

59. (1) The Joint Committee may meet as often as convenient but not less than once a month. In cases of urgency, a special meeting of the Committee may be called by giving not less than six hours notice at the request of either side. The meeting shall be held during working hours unless otherwise agreed upon between the two sides. The proceedings of the meetings shall be conducted in a language understood by majority of the employees.

(2) No business other than that appearing on the agenda, shall be transacted at any meeting unless both sides agree to its introduction.

(3) The presence of three-fifths of the members from each side of the Committee shall be necessary to form a quorum;

(4) The decision of the Committee shall be arrived at by agreement between the two sides, but if no such agreement is possible the decision shall be taken by vote of majority of the members present. The Chairman shall have one vote and in case of a tie a casting vote.

60. The agreement referred in sub-section (1) of section 52 shall be sent to the Registrar by registered letter and to the Labour Officer by ordinary Post.

61. The special intimation referred to in sub-section (2) of section 52 shall be sent in Form M.

62. The statement of the case referred to in section 54 shall be in Form N.

63. On receipt of the statement of the case under section 54 the Conciliator for the industry in the local area shall send an intimation to the parties to the dispute to appear before him at such time and place as may be specified in the intimation. He shall hold discussion, either jointly or separately, with the employer and the representative of employees at such places and at such times as he may deem fit, and shall endeavour to bring about a settlement of the dispute.

64. The memorandum of settlement referred in sub-section (1) and (4A) of section 58 shall be drawn up in Form O.

65. The memorandum of settlement drawn up under rule 64 shall be published by the Registrar by

display on the notice board of his office under his hand and seal and a copy of the same shall also be forwarded by him to the Commissioner of Labour and also to the parties to the dispute and the parties shall also be informed of the date of publication on the notice board. The date of recording such settlement in the Register of agreements shall also be communicated to the parties to dispute.]

65A. The report of the Conciliator or the Chief Conciliator forwarded to the State Government under the proviso to sub-section (2) or under sub-section (3) of Section 5 except in cases in which a dispute is referred to a Board, or the parties to the dispute enter into a submission in respect of it, shall be published on the notice board of the office of the Commissioner of Labour and a COPY thereof, shall at the time of such publication, be forwarded to the parties to the dispute and the parties shall be informed of the date of such publication on the notice board.

66. The notice referred to in sub-section (2) of section 59 shall be served on the parties concerned by registered letter.

67. (1) When an industrial dispute has been referred to a Board under sub-section (1) of section 59, the Board shall at its first sitting call upon the parties in such order as it thinks fit to state their case.

(2) Any member of a Board may administer an oath.

68. A submission entered into by the parties under section 66 shall be published by the Registrar in the Gazette and a COPY of the same shall be forwarded to the Commissioner of Labour, and also to the Arbitrator, Labour Court and the Industrial Court as the case may be.

69. Where an industrial dispute between employers and employees has been referred by the State Government under sub-section (1) of section 72 to the arbitration of the Industrial Court or the Labour Court, the Industrial Court as the case may be shall send a notice to the employers of such employees that they have been made parties to such arbitration;

70 (1) Within thirty days from the day on which he receives any award of an arbitrator, Labour Court or Industrial Court, the Registrar shall --

(a) cause it to be published in the Official Gazette, where he considers, it necessary to do so, having regard to the importance of the award; or

(b) cause it to be displayed on the Notice Board in his Office, in other cases.

(2) Where the award is published in the Official Gazette the Registrar shall, at the time of such publication, forward a copy of the award to the parties affected by, or concerned with, if and where

the award is displayed on the Notice Board in his Office, he shall send a written intimation to said parties regarding the date on which the award is displayed on the Notice Board.]

71. Every application under sub-section (1) of section 79 shall be made in Form P and shall be forwarded to the Labour Court for the local area concerned by registered post or be presented to the Clerk of the Court or any other subordinate officer authorised by the Court in this behalf.

71A (1) Every representative union in respect of any industry in any local area, or where there is no Representative Union, a Qualified Union, or where there is no Representative or Qualified Union, a Primary Union, shall communicate to the employer before the 30th September in every year the names and addresses of such of the office-bearers of the union who are employed in that industry and whom, in the Opinion of the union, should be recognised as protected employees.

Any change in the incumbency of any such officer shall be communicated to the employer by the union within 15 days of such change.

(2) The employer shall, subject to the provisions of sub-section (2B) of section 101 recognise such officers to be protected employees for the purposes of sub-section (2A) of the said section and communicate to the union concerned, in writing, within 15 days of the receipt of the names and addresses under sub-rule (1), the list of employees recognised as protected employees:

Provided that, where there is no Representative Union or a Qualified Union or Primary Union, the C elected by the employees to represent them in accordance with the provisions of section 28 shall be recognised by the employer as protected employees subject to sub-section (2B) of the said section 101.

(3) Where the total number received by the employer under sub-rule (1) exceeds the maximum number of protected employees admissible for the industry under sub-section (2B) of section 101, the employer shall recognise as protected employees only such maximum number of employees, according to the serial order in the list received by the employer.

(4) Any dispute connected with the recognition of protected employees under this rule that may arise between an employer and the union or elected representatives of employees shall be referred to the Conciliator concerned, whose decision thereon shall be final.]

72. (1) The record of industrial matters referred to in clause (a) of section 111 shall be maintained by the Commissioner of Labour.

(2) For each industry the record of such industrial matters shall be maintained separately by the Commissioner.

72A. (1) The State Government may, by special or general order notified in the Official Gazette,

require any employer, or employers generally, in any industry to

(i) records of strikes, stoppages, lockouts, closures including lay off, attendance and absenteeism, labour turnover, premises, rationalisation, usages and rules of discipline in such form or forms in the Appendix to these rules as it may consider appropriate for such industries, and

(ii) submit copies thereof to the Commissioner of Labour, Bombay, or such other officer as may be authorised in this behalf by the State Government at such times as may be specified in the order; and

(2) Commissioner of Labour or the officer authorised under sub- rule 1) may then obtain similar data and particulars from any other person who in his opinion, is competent to furnish such data and particulars.

72B. (1) Before holding an inquiry under section 112, the officer authorised under the said section shall indicate to the employer concerned the particulars in respect of which the accuracy of the records maintained by him is to be verified and the officer shall allow him or his representative to be present during the inquiry; if the employer so desires.

(2) The officer holding the inquiry shall, on demand, give the persons concerned a written receipt for any record or document produced by him if the officer considers it necessary to retain such record or document in his possession.

(3) Any record or document retained under sub-rule (2) shall be returned to the person concerned as soon as practicable and in any case on completion of the inquiry.

73. Before proceeding to hold an inquiry under sub-section (1) of section 112 the officer authorised by the State Government shall give at least three clear days intimation to the employer concerned. He shall also specify in the intimation the particular records which he desires to verify.

74. The notices, under section 116 shall be given in Form Q and shall be sent by registered post.

75. (1) If in any proceedings before the Registrar, a Conciliator or a Board the authority holding the proceeding requires any information in connection with such proceeding in a particular form he may call upon the party concerned to submit such information in that form.

(2) A Conciliator or a member of a Board shall have power after giving reasonable notice, to enter the place or places where the employees concerned are employed or the office of any union of the premises provided by an employer for the residence of his employees for the purpose of holding a proceeding under the Act.

75A. The information furnished by a party under sub-section (4) of section 118 shall be verified by an affidavit.

76. Whenever any letter, notice, statement or intimation is required to be forwarded or sent under any of these rules by registered post to any person it shall be deemed to be sufficient compliance with the rules if such letter, notice, s or intimation is delivered by hand and an acknowledgement in writing by or on behalf of such person, is obtained in respect of such delivery.

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